

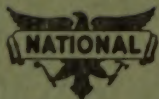
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Thesis 1933



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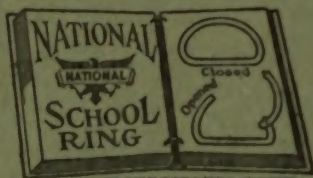
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THESIS

MODERN TENDENCIES IN THE TREATMENT OF CRIMINALS

SUBMITTED BY

· ROBERT CLIFTON HEALEY

(A. B., Boston College 1917)

In partial fulfillment of requirements for the degree  
of Master of Education 1933.

First Reader: Franklin C. Roberts, Assistant Professor of Education  
Second Reader: George K. Makechnie, Instructor in Social Studies



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Today we often hear the timid statement that a crime wave is sweeping over the country. If they search for statistics on which to base such a pessimistic outlook, they find them very inadequate. Perhaps it is the challenge of the novel which arrests the attention. If this is true, then conditions are not as bad as they seem. Gillin has given one explanation for the danger when he said, "The criminal threatens our established order. He diverts our attention from the pursuits of a well ordered society, forces us to give time and thought to protection."

Again, the headlines of the daily press, by printing in large type the most sensational crime, lay them ever before our eyes. To one who limits his reading to such material as this, it seems that these are the usual and not the unusual happenings of the day. However, statistics are lacking if one looks for them.

1. J. L. Gillin, *Criminology and Penology*, p. 6.

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# MODERN TENDENCIES IN THE TREATMENT OF CRIMINALS

## CHAPTER I

### RAPID SURVEY OF PRESENT DAY CONDITIONS

Today men often hear the broad statement that a crime wave is sweeping over the country. If they search for statistics on which to base such a pessimistic outlook, they find them very inadequate. Perhaps it is the challenge of the unusual which arrests the attention. If this is true, then conditions are not as bad as they seem. Gillin has given one explanation for the concern when he said, "The criminal threatens our established order. He diverts our attention from the pursuits of a well ordered society, forces us to give time and <sup>1.</sup> thought to protection,"

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---

1.

J. L. Gillin, Criminology and Penology, p. 5.

# THE TREATMENT OF CRIMINALS

## CHAPTER I

### THEORY OF THE TREATMENT OF CRIMINALS

Today we often hear the phrase "treatment of criminals" as if it were a new discovery. In fact, it is a very old idea. For centuries, men have been trying to find out what makes a man a criminal, and how to prevent him from becoming one again. The first step was to punish him, but that did not always work. Then, people began to think of "reformation" or "education" of the criminal. This was the beginning of the "treatment" of criminals. It was a new idea, and it was a good one. It was the first step towards a more humane and effective way of dealing with crime.

And, the history of the early years of the treatment of criminals is full of interest. It shows how people have tried to find out what makes a man a criminal, and how they have tried to prevent him from becoming one again. It shows the progress of the treatment of criminals, from the first attempts at punishment to the modern methods of reformation and education. It is a story of the struggle to find a better way of dealing with crime, and it is a story that is still being written today.



The cost of crime, especially, in the United States is enormous. The figures given by Gillin seem unbelievable. "A recent estimate of the cost of crime in the United States is \$2,500,000 per day."<sup>1.</sup> Anderson in the Journal of Social Forces says that in some states the process of convicting a person of felony costs not less than \$1,500.<sup>2.</sup> In one year alone (1909) Massachusetts spent \$1,556,700.45 simply for the maintenance of the state penal institutions, jails and houses of correction.<sup>3.</sup> The only expenditure in the state of Massachusetts which equaled that for crime was for education. The Crime Commission of New York State in its Special Report on Penal Institutions in 1930 recommended an immediate appropriation of \$10,000,000 for improvement and repairs alone for state prisons, hospitals and reformatories. Also at the same time the Commission recommended an appropriation of \$20,000,000. in installments during three years to complete the

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1.

J. L. Gillin, Criminology and Penology, p. 29.

2.

Anderson, Journal of Social Forces, January 1923, p.93

3.

Report of Massachusetts Commission on the Cost of Living, Boston, 1910, p. 715.

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the Commission recommended an appropriation of \$50,000,  
000 in installment during three years to complete the

1. J. I. Gillin, Criminology and Penology, p. 22.
2. Anderson, Journal of Social Forces, January 1930, p. 62.
3. Report of Massachusetts Commission on the Cost of Living, Boston, 1930, p. 710.



and rehabilitation of correctional institutions,<sup>1.</sup>  
 Professor E. H. Sutherland in 1924 gave the cost of  
 crime as about \$6,000,000,000.<sup>2.</sup>

Professor Clayton Ettinger of Western State  
 Teacher's College of Kalamazoo, Michigan, in his book  
 published in 1932 says, "in considering the far- reaching  
 effects of crime we come to the conclusion that the  
 highest figure on its annual cost yet ventured-  
 \$13,000,000,000- is probably not an exaggeration."<sup>3.</sup>

The cost of Federal enforcement of Federal Criminal  
 laws 1929- 1930 was \$57,701,992.14,<sup>4.</sup>

- 
1. Special Report on Penal Institutions of the Crime  
 Commission of New York State, 1930.
  2. E. H. Sutherland, Criminology, p. 68.
  3. Clayton J. Ettinger, "The Problem of Crime", p. 20.
  4. National Commission on Observance and Enforcement,  
 Report on the Cost of Crime, No. 12, p. 150.

and rehabilitation of contract and investigation.  
 Professor E. H. Snodgrass in 1934 gave the cost of  
 birds as about \$2,000,000,000.

Professor George Arthur of Western State  
 Teacher's College of Kalamazoo, Michigan, in his book  
 published in 1933 says, "in considering the tax-  
 revenue of birds we come to the conclusion that the  
 highest figure for the annual cost yet ventured-

\$12,000,000,000 is probably not an exaggeration."  
 The cost of Federal employees of Federal Criminal  
 Investigation - 1930 was \$27,701,202.14.

1. Special Agent in Charge, Bureau of the Crime  
 Commission of New York State, 1930.
2. E. H. Snodgrass, Ornithology, p. 82.
3. George A. Snodgrass, "The Problem of Crime", p. 20.
4. National Commission on Government and Education,  
 Report to the Govt of Ohio, No. 12, p. 100.



## CHAPTER II

## THE MEANING OF CRIME: LEGAL AND SOCIAL

The word crime is an extremely broad one. That which is a crime to one is not to another. What was not a crime years ago is a crime today. Therefore a consideration should be made of the many definitions given to the word "Crime". Parmelee, an authority on Criminology, says that it is "an act forbidden and punished by law, which is almost always immoral according to the prevailing ethical standard, which is usually harmful to society, which it is ordinarily feasible to repress by penal measures, and whose repression is necessary or is supposed to be necessary to the preservation of the existing social order."<sup>1</sup> Gillin says, "from the legal point of view any action by an individual in contravention of a law is a crime. It may be the commission of an act forbidden by law, or the omission of an act commanded by law. Murder and theft are examples of the first; neglect to properly care for one's children, of the latter. In the statistics of crime this is the definition that must be kept in mind."<sup>2</sup>

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1.

Maurice Parmelee, Criminology, p. 32.

2. J. L. Gillin, op. cit. p. 11.





Wines, in his book, "Punishment and Reformation" defines it as "a wrong act, a violation of the rights of other men, an injury done to individuals or to society against which there is a legal prohibition enforced by some appropriate legal penalty."<sup>1.</sup>

According to these definitions, crime can include more and more acts the longer men live and make laws, since legally, crime must be an act or omission regulated by law. Of over 106,000 persons arrested in Chicago in the year 1912, over one-half violated laws not in existence twenty years previous.<sup>2.</sup> These are legal definitions, hence one may see that crime legally is determined by a statute as well as by social pattern. The Volstead Act is an example of such, since before that law, it was legal to make intoxicating liquors, where, now it is illegal. In summary then, legally, crime is an act or omission contrary to the laws made by those having authority to do so.

These legal definitions of crime do not satisfy the demands of those interested in social science.

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1.

F. C. Wines, Punishment and Reformation, p. 11.

2.

Journal of Criminal Law and Criminology, Volume 5, page 173.

Wrote, in his book, "Penitentiary and Reformation" (1876), it was wrong and, a violation of the rights of other men, an injury done to individuals or to society against which there is a legal prohibition enforced by some appropriate legal remedy." According to these definitions, crime was homicide more and more both the institution of a new law, crime legally, crime was to an act or omission regulated by law. It over 100,000 persons executed in Chicago in the year 1873, each one self-inflicted law not in existence twenty years previous. These are legal definitions, hence the law now that crime legally is determined by a statute as well as by moral patterns. The Volstead Act is an example of such, which before that law, it was legal to make intoxicating liquors, there, now it is illegal. In summary law, legally crime is an act or omission contrary to the law made by those having authority to do so.

These legal definitions of crime do not satisfy the demands of those interested in social sciences.

1. J. C. Smith, Penitentiary and Reformation, p. 11.
2. Journal of Criminal Law and Criminology, Volume 5, page 173.



Garofalo, the Italian criminologist, was among the first to treat crime socially as well as legally. His definitions would include "those acts which no civilized society can refuse to recognize as criminal<sup>1.</sup> and repress by means of punishment. Fred E. Haynes, Professor of Sociology in the State University of Iowa, says "crimes are the more serious of the anti-social acts and are sometimes described as the major anti-social acts."<sup>2.</sup> This definition has been enlarged by Gillin, who gives the social definition of crime as "an act which is believed to be socially harmful by a group of people which has the power to enforce its beliefs."<sup>3.</sup> He makes crime something contradicting the mores of the people. Socially, therefore, crime is an act or omission which contravenes the rights of another.

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1. Garofalo, Criminology, p. 5.

2. F. E. Haynes, Criminology, p. 86.

3. F. C. Gillin, op. cit. p. 13.

Gerstle, the Indian ethnologist, has shown the  
 fact to these other societies as well as to his. His  
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 is an act or omission which constitutes the rights of  
 another.

- 
- Gerstle, Ethnology, p. 3.  
 F. E. Hayes, Ethnology, p. 66.  
 F. C. Gilpin, op. cit. p. 12.



There have been several classifications of crime based on the social development of the people and the government whose duty it is to protect it. According to the English Common Law there were three classes of crime: treason, felony, and misdemeanor. Treason, according to Webster's dictionary, is "an attempt by overt act to overthrow the government of the state to which the offender owes allegiance or to kill or personally injure the sovereign or his family." "Felonies are the most serious offenses known to the law and are punishable by imprisonment for a considerable period and sometimes by a fine as well, certain kinds being punishable by death. Misdemeanors are of less degree and are punishable by imprisonment for a brief period with or without a fine."<sup>1.</sup>

Socially crimes may be classified according to the interest which is injured. Roscoe Pound of Harvard classified these interests as:

1. Interest in the general security.
2. Interest in the security of social institution.
3. Interest in the general morals.
4. Interest in the conservation of social resources.
5. Interest in the general progress.
6. Interest in the individual life.<sup>2.</sup>

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1.

Harry Best, Crime and the Criminal Law in the United States, p. 8.

2.

Roscoe Pound, A Theory of Social Interests. American Sociological Society, Volume XV. p. 32.





## CHAPTER III

CHANGING ATTITUDE OF SOCIETY TOWARD THE CRIMINAL  
PRIMITIVE METHODS

Society's attitude toward the criminal has changed. From the dim past men know that punishment was meted out to those who had injured in certain ways those who had the power to punish. At first it was a private work, later becoming a public duty when strong civil government came into existence.<sup>1.</sup> They read in history of punishment for reasons which now seem absurd. At Athens, anyone who was found guilty of plucking a leaf from the trees consecrated to Minerva was banished from Attica. Roman history tells of Christians being treated as criminals and thrown to the wild beasts because they refused to believe in the pagan gods.

Punishment has been applied in several ways, namely by:

1. Eradication of the criminals and his family.
2. Banishment.
3. Poetic punishment such as branding the forehead of the thief with the letter T.
4. Magical incantations.
5. Capital punishment.
6. Public ridicule.
7. Payment of fines.

---

1.

Gilllin, op. cit. p. 301.

# CHAPTER III

## CHARACTERISTICS OF SOCIETY TOWARD THE CRIMINAL

### INTRODUCTORY REMARKS

Society's attitude towards the criminal has

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history of punishment for reasons which now need no

At Athens, anyone who was found guilty of slandering a man from the tribe connected to Minerva was punished from Athens. Roman history tells of Christians being

executed as criminals and thrown to the wild beasts because they refused to believe in the pagan gods. Punishment has been applied in several ways.

namely by:

1. Killing him or the wife and his family.
2. Imprisonment.
3. Public punishment such as flogging; the loss of the right with the right to
4. Hard labor.
5. Capital punishment.
6. Public ridicule.
7. Payment of fines.



All these were acts of retaliation upon the victim and were intended to injure or punish in some way. The motive or end of these punishments varied. Five theories are evident.

1. Retaliation.
2. Expiation.
3. Deterrence.
4. Reformation.
5. Protection of society.

They were based on the philosophy or religious ideas of the time.

#### IDEAS OF THE EARLY CENTURIES.

It was Aristotle who made an attempt to rationalize punishment when he drew a distinction between an injury which was intentional and one which was unintentional. The intent helped to determine the form and the amount of punishment. It remained for the Church, about 300 A. D., however, to add the significant idea, namely the reformatory purpose of punishment.

"While it may not be said that in Roman courts there was none of the mercy and humanity to be seen in the courts of the Church, it is clear that from the first, the latter (the Church) are permeated with the reformatory purpose of punishment."<sup>1.</sup>

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1.

Gilllin, op. cit. p. 320.

All these were acts of retaliation upon the victim and were intended to injure or punish in some way. The motive or end of these punishments varied. Five theories are evident:

1. Retaliation.
2. Expulsion.
3. Excommunication.
4. Restoration.
5. Protection of society.

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### CLASSICAL SCHOOL

As an outgrowth of the intellectual development of the eighteenth century there arose the Classical School of Penology which was a protest against the tyrannical decrees of the judges. Its purpose was to mitigate extreme punishment especially when given for personal reasons. It had its foundation in Italy with Beccario as its leader. His ideas may be thus summed up. "If we look into history we shall find that laws which are or ought to be conventions between men in a state of freedom, have been for the most part, the work of the passions of a few or the consequences of a fortuitous or temporary necessity: not dictated by a cool examiner of human nature."<sup>1.</sup> In his book he wrote much for which modern penologists are striving. He advocated:

- "1. Legislators not judges should make the laws.
2. The duty of judges is solely to determine whether a crime as defined by the legislators has been committed and to pronounce the sentence determined by the law.

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1.

The quotation is from Gillin, op. cit., p. 324.

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3. The laws should be clear, providing a scale of crimes from the most dangerous to society, to the least serious, so that each man will know just what punishment to expect if he commits a certain act.

4. The same punishment should be visited upon every man who commits a given act no matter what his status in society.

5. The purpose of punishment is to make sure that the guilty do not repeat the crime and that others are deterred by the punishment of the guilty from committing crime.

6. This purpose is secured by the certainty and promptitude rather than by the severity of the punishment.

7. The State should address itself to devising means for the prevention of crime by

- (a) making the laws clear and simple.
- (b) getting 'the entire force of the nation united in their defense'
- (c) having 'them intended rather to favour every individual than any particular class of men'
- (d) having 'the laws feared, and the laws only'

8. The punishment should be public."

He sums up his conclusion as follows: "That a punishment may not be an act of violence, of one or many, against a private member of society, it should be public, immediate and necessary, the least possible in the case given, proportioned to the crime, and  
1.  
determined by the laws."

The French Code of 1791 made use of many of his ideas and "has come into our American Law via of  
2.  
New York State."

1.

The quotation is from Gillin, Criminology and Penology, p. 326.

2.

N. F. Cantor, Criminals and Criminals Justice, p. 252.

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crimes.

6. This purpose is secured by the certainty and  
promptness with which the law is applied.

7. The State should address itself to deterring  
men from the commission of crime by

- (a) making the law of crime clear.
- (b) making the punishment of crime certain.
- (c) making the punishment prompt.
- (d) making the punishment certain.
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S.

New York State."

The quotation is from Gillin, *Crimes and*

*Penology*, p. 108.

E. E. Carter, *Crimes and Criminology*, p. 108.



### NEO- CLASSICAL SCHOOL

The Classical School however made no allowance for differences in natures and circumstances. To do this the Neo- Classical School came into existence at the beginning of the nineteenth century with Rossi, Garraud and Joly, as its representatives. Following this came the Italian School inaugurated in 1872 by the Italian anthropologist Cesare Lombrose. It stressed the scientific study of the criminal and the conditions under which crime was committed. Enrico Ferri and Raffaele Garofalo were its early leaders while Doctors Healy and Goddard carry on their ideas today. This idea is advocated by modern penologist. Professor Francis B. Sayre, State Commissioner of Correction for Massachusetts showed himself to be a disciple of these ideas in an article in the Boston Globe, December tenth, 1932. "An intelligent handling of the crime problem demands an individualization of the treatment accorded each convicted criminal. To fit the treatment to the criminal rather than to the crime requires the aid of the psychiatrists, social workers and doctors." Criminals were to be treated now, not punished. Persons were to be educational institutions to teach the criminal and thus





prevention received a new impetus.

### IMPRISONMENT

At the present time the prison system is the most common method of treatment of criminals. Its beginning dates back to the most remote past. Viewed as an institution for detaining men against their will it probably goes back as far as the time of the general practice of cannibalism, when future victims were held in stockades to be fattened for the chief's course in the menu of their captives.<sup>1.</sup> In later historymen associate prisons with places where political or religious prisoners were held to await trial. Just when imprisonment became a means of punishment is uncertain, since the transition from being a mere detention place to a place of punishment came very gradually. However, beginning in 1775 it was a common method of punishment in America. It came into America from the mother country, England. The British prison was the result of three movements. Gillin, lists them as,

"1. The recognition of the evils of the old local prisons.

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1.

Barnes, The Repression of Crime, p. 84.

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REMARKS

At the present time the system is the

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2. The stopping of transportation to America by the Revolution..<sup>1.</sup>

3. The failure of transportation to Australia."

### THE PENNSYLVANIA SYSTEM

Now that England had to find new methods of dealing with her prisoners she turned to America to see what changes she had made. By 1790 the Pennsylvania Quakers had devised the best methods and greatly influenced the English visitors especially William Crawford of the London Prison Discipline Society, who was sent to America in 1832. William Penn, the founder of the Pennsylvania, before coming to America had been a prisoner in Europe. He had radical ideas concerning the treatment of criminals. He set about "to abolish tortures and substituted the penalties of hard labor, flogging, fines and forfeitures. One of his aims was reformation,"<sup>2.</sup> He abolished capital punishment for crimes except homicide. Though he instituted reforms in America it must be said that they did not originate with him since, he on a visit to Holland was much influenced by their work houses with their industrial features.

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1.

Gillin, op. cit. p. 387.

2.

Gillin, op. cit. p. 387.

2. The story of the origin of the word "abolition" in the United States.
3. The history of the word "abolition" in the United States.

### THE ABOLITIONIST

The first Englishman to find new methods of dealing with his subjects was the Duke of Devonshire. By 1790 the Pennsylvania Quakers had revised the best methods and greatly improved them. The English visitor suggested William Lloyd Garrison of the Boston British Emancipation Society, who was sent to America in 1831. William Lloyd Garrison had been of a Pennsylvania Quaker family and had been a Quaker in America. He had radical ideas concerning the treatment of criminals. He set about "to abolish" the system and substituted the penitentiary in its place. Garrison, like his father, was of his mind. He abolished capital punishment for crimes except homicide. Though he advocated violence in America it was he who said that they did not originate with him since, he on a visit to Holland was much influenced by their work houses with their industrial features.

Garrison, op. cit. p. 187.

Garrison, op. cit. p. 187.



Although Queen Anne of England did not agree with him the Province of Pennsylvania reenacted them and used them until his death in 1878. Then the cruelties were revived and existed until the Revolutionary War.<sup>1.</sup>

"The changing of the Old Walnut Street Jail in Philadelphia into a prison in 1740 marks the beginning of the prison system in this country."<sup>2.</sup> The main idea of the Pennsylvania system, as it is called, was that solitary imprisonment or labor with absolute silence would give time for reflection and repentance. Although few states followed this system it was a marked improvement in the treatment of criminals. Successful at first, the Walnut Street prison became a distinct failure later, due to the large number of prisoners with limited accommodations.

#### AUBURN SYSTEM

The state of New York in attempting to use the Pennsylvania system failed. There were two serious defects in this institution which brought about its abandonment by New York. "The congregate method of

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1. Lewis, op. cit. p. 12, 13.

2. Cantor, op. cit. p. 283.





confinement was followed and it was so small that it very soon became overcrowded, and the practice of pardoning arose in order to keep the prison population down to a number that it was possible to house under crowded conditions. Between 1797 and 1822, 5,069<sup>1.</sup> convicts were admitted, and 2,819 were pardoned."

In its place developed the Auburn System in 1816. This system forsook the idea of solitary confinement at all times. Prisoners were allowed to work together in the daytime while at night they went back into solitary confinement. Silence was enforced at all times. Its defenders claimed it to be cheaper than the prisons conducted on the Pennsylvania system and removed the bad effects of complete solitude on the mind of the prisoner. Its remarkable success and spread was due to a great degree to Louise Dwight, America's foremost prison reformer of the time and leader of the Prison Discipline of Boston.<sup>2.</sup> This man trained for the ministry was forced by ill health to change his work. He travelled through the states where the question of prisons was arousing interest and advocated the Auburn system.

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1.

Cantor, op. cit. p. 283.

2.

O. F. Lewis, The Development of American Prisons and Prison Customs, pp. 85, 86.

contingent was followed and it was so noted that it

very soon became obvious, and the position of

positioning came in order to keep the other population

down to a number that it was possible to handle under

present conditions. Between 1947 and 1951, 3,000

people were killed, and 3,000 were wounded.

In the place destroyed the human system in 1951. This

system took the idea of military commitment as all

time. This was not allowed to work together in the

active role of what they went back into policy

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O. F. Smith, The Development of American System and

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In comparing the Pennsylvania System or Separate System and the Auburn or Silent System, one can not find them so radically different as their defenders would have men believe. Both prevented the communication of prisoners and believed in labor. In the Pennsylvania idea the prisoners were separated every hour of the day and night and did not see each other. In the Auburn plan the prisoners saw each other at times but could not communicate. Of the two, the Auburn had the more lasting effect on later penal history. The causes for its American popularity lies in the following reasons, as given by Gillin:

1. In its early days it was administered by exceptionally able wardens.

2. Such a plan was economic to build. Many men could be housed for the same expenditure of money than by the Pennsylvania system.

3. It was more productive industrially than its competitor. The only prisons in the early history of prisons in the United States which paid their way were those built and administered on this basis.

4. It had unusual publicity.<sup>1</sup>

#### ELMIRA SYSTEM

The combining of the improvements of the two systems of this country mentioned and others in foreign countries gave birth to a new system called

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<sup>1</sup>.

J. L. Gillin, op. cit. p. 401.

In comparing the Pennsylvania System of Imprisonment with the Auburn or Silent System, we can not find them so radically different as their advocates would have us believe. Both presented the same kind of prisoners and followed in labor. In the Pennsylvania house the prisoners were segregated every part of the day and night, and this was not the case in the Auburn when the prisoners were kept together all day and night. Of the two, the Auburn had the more lasting effect on later generations. The cause for the American popularity lies in the following reasons, as given by Gilliam:

1. In the early days it was administered by unscrupulously able men.
2. Such a plan was convenient to police. Many men could be housed for the same expenditure of money than by the Pennsylvania system.
3. It was more productive industrially than the Pennsylvania. The only prison in the early history of prisons in the United States which sold their wares were those built and administered in this house.
4. It had unusual publicity.

#### THE PENITENTIARY SYSTEM

The combining of the improvements of the two systems of this country mentioned and others in foreign countries gave birth to a new system called



the Elmira Reformatory system introduced in New York about 1870. Captain Maconochie of the British Penal Colony in Australia started the plan of commutation of sentence for good behavior. According to his plan every prisoner on being sentenced had a certain number of marks against him. These could be reduced by good behavior and labor. When all were removed the prisoner was released. Sir Walter Crofton, The Director of the Irish Convict Prisons instituted a system of grading and classifying inmates and advanced the idea of the indeterminate sentence. These two men were leaders in their respective countries.

The Elmira system was an application of the many new ideas in penology of the nineteenth century. In describing this new system, Cantor says the three principles of Elmira, were that criminals can be reformed through individual treatment, that the individual must cooperate and that the process of reform is educational.<sup>1.</sup> Great praise must be given to the Irish system lauded so highly by Wines and Dwight in their report to the legislature of New York, January 1867. It said in part "In one word it (Irish system) may be defined as an adult reformatory, where

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Cantor, op. cit. p. 287.

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The British system was an application of the many new ideas in penology of the nineteenth century. In describing this new system, Crofton says the three principles of British, were that criminals can be reformed through industrial treatment, that the industrial must cooperate and that the process of reform is educational. Great Britain would be given to the Irish system lauded so highly by him and Deloit in their report to the Legislature of New York, January 1887. It said in part "In one word it (Irish system) may be defined as an adult reformatory, where



the object is to teach and train the prisoner in such a manner that on his discharge he may be able to resist temptation and inclined to lead an upright worthy life. Reformation, in other words is made the actual as well as the declared object. This is done by placing the prisoner's fate as far as possible, in his own hands, by enabling him, through industry and good conduct, to raise himself, step by step, to a position of less restraint while idleness and bad conduct on the other hand keep him in a state of coercion and restraint."<sup>1.</sup>

Though the Elmira System had stood the test of experience it was confined, in practice, to the younger prisoners and did not reach the greater number of adult offenders. It also failed to provide the proper psychological surroundings. It assumed that criminals could be treated in a group and did not allow for different psychological and biological types. It was however, a marked improvement over anything tried up to this time.

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1.

F. C. Wines, Punishment, and Reformation, p. 203.





## CHAPTER IV

## PHASES OF IMPROVEMENT OF THE LAST CENTURY

## DIFFERENTIATION OF CRIMINALS

The movement for scientific differentiation of criminals is one of the outstanding improvements of the last century. Following upon the Pennsylvania and Auburn Systems came the Houses of Refuge. They came as a result of the movement to remove youthful delinquents from the associations with adult offenders. The purpose of them was reformatory. New York, Philadelphia and Boston were the first to establish them from 1825 to 1828. The first state institution in the country was the Lyman School for Boys, opened in 1847 in Massachusetts. These institutions have been used much by juvenile courts after other means<sup>1.</sup> have failed.

Previous to the establishment of such institutions in the United States, John Falk had set up one at Seimer, Germany, in 1813. This institution was of the nature of an industrial school.

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1.

Haynes, op. cit. p. 143, 144.

## CHAPTER IV

THE STATE OF THE COUNTRY AT THE END OF THE  
CENTURY

The movement for administrative reorganization of  
the country was one of the outstanding features of  
the last century. Following upon the formation of  
the State of New York, the House of Representatives  
as a result of the movement to remove the  
capital from the city of Albany and to establish  
the seat of government at Binghamton, New York,  
this plan and action were first to establish  
from 1835 to 1838. The first state institution  
in the country was the State School for Boys, opened  
in 1837 in Binghamton. These institutions have  
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Provision for the establishment of such institutions  
in the United States, when this act was at  
Baltimore, Germany, in 1871. This institution was of the  
nature of an industrial school.



The cottage plan or family arrangement in the treatment of young offenders started with the French and was first used in the United States at Lancaster, Ohio, in 1855. It exists now in an improved form at Sleighton Farms in Pennsylvania "where, inmate self-government and an extremely close approximation<sup>1</sup> to normal family life prevail." About 1830 the insane were taken from the prisons and placed in hospitals. The physical diseased also were separated from the healthy. The Institute for Defective Delinquents at Napanock, New York was fitted in 1921 to handle male defective delinquents sixteen years of age and over.

Several reformatories now give special care for women and girls. Among the latest in the Federal Industrial Institution for Women at Alderson, West Virginia, built in 1928. The number of women offenders has always been smaller than the number of men. Therefore, the demand for separate institutions has been less. In the United States, Indiana was the first state to begin separating females from male

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1.

Harry E. Barnes, *The Repression of Crime*, p. 172.

The cottage plan of family arrangement in the treatment of young offenders started with the French and was first used in the United States at Lancaster, Ohio, in 1865. It exists now in an improved form at Kingston House in Pennsylvania "where, through self-government and an extremely close supervision of normal family life prevail." About 1880 the inmates were taken from the prison and placed in

hospitals. The physical diseases also were separated from the family. The Institute for Defective Delinquents at Rochester, New York was fitted in 1891 to handle male defective delinquents sixteen years of age and over.

Several reformatories now give special care for

women and girls. Among the latest in the Federal

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Therefore, the demand for separate institutions has

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delinquents in penal institutions in 1873. Massachusetts was the next state which established a separate institution for women in 1879. In 1922, twenty one states had state institutions of a reformatory nature for the custody and treatment of delinquent women.<sup>1.</sup> In these reformatories for women the health problem is the greatest.

### REFORMATION

In 1828, Charles Lucas, the eminent French penologist, in his book entitled, "The Penitentiary Systems of Europe and America", recommended a reformatory type of prison discipline rather than one of punishment. In 1846 Montesinos, a Spanish Criminologist wrote, "the moral object of penal establishments should be not so much to inflict punishment as to correct, to receive men idle and ill-intentioned and return them to society, if possible, honest and industrious citizens."<sup>2.</sup> Reformation was one of the three basic principles of the Elmira System. Captain Alexander Maconochie in Australia by his system of marks, described before, advanced the

<sup>1.</sup> Gillin, op. cit. 645, 648.

<sup>2.</sup> Quoted in Wines Punishment & Reformation, pp. 201-202.

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# REFORMATION

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1. *Quoted in* *Prison Reformation & Reformation*, p. 201-202.

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ideas. At the first prison Congress in the United States at Cincinnati, Ohio, in 1870 the reformatory idea was strongly emphasized. It treated the following means,

1. Religion.
2. Education.
3. Belief by the prison officers that men can be reformed.
4. Ability to gain the good will of the convict.
5. A generous parental attitude by prison officials toward the prisoners.
6. Cultivation of the prisoners self respect instead of degradation.
7. The use of moral rather than physical force in prison administration.
8. Steady active honorable labor.
9. The adoption of the most valuable parts of the Irish system, including the more strictly penal state of separate imprisonment, the reformatory state of progressive classification, and the probationary period of natural training.
10. Classification and grading of prisoners.
11. Abolition of the short sentence. (1)

The first reformatory in the United States was the New York State Reformatory at Elmira, with Mr. Brockway as its superintendent. The essential features of the new reformatory were:-

- "1. Limited to prisoners between sixteen and thirty years of age convicted for the first time.
2. The limited indeterminate sentence.
3. A classification or grading of the prisons.

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Quoted in Criminology and Penology, J. L. Gillin, pp. 622, 623, from Henderson Prison Reform and the Criminal Law, pp. 39- 45.

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7. The use of moral rather than physical force in prison administration.
8. Strictly active household labor.
9. The abolition of the most valuable parts of the penal system, including the more strictly penal state of separate imprisonment, the reformatory state of progressive classification, and the probationary period of natural freedom.
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1. Quoted in Criminology and Penology, J. I. Gillin, pp. 622, 623, from Henderson Prison Experiments and the Criminal Law, pp. 39-43.



4. A marking system similar to that used by Maconochie providing credits to be earned by the prisoner as a condition of increased privileges or release from control based upon good behavior, diligence in labor and study, and results accomplished; and debits for derelictions, negligences and offences.

5. Parole based upon the marking system and upon a reasonable probability of the prisoners good behavior if released. In addition to these elements provided for in the organic law, the manager and superintendent, as experience suggested changes established in addition the following features in conformity with the purpose of the reformatory.

6. Physical training.
7. Military training.
8. School of Letters.
9. School of Trades." 1.

#### THE NEW YORK REFORMATORY SYSTEM

The New York Reformatory taken as an example is worthy of description. When a delinquent comes to the reformatory he is put into the middle or second grade. After a while he is put into the first or third according to his marks. Also, certain badges of merit are given to the worthy. The men admitted under an indeterminate sentence are subject to release. After a delinquent has made six satisfactory months by parole reports, the prisoners with the indeterminate sentence are usually released unconditionally. One who

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J. L. Gillin, op. cit. 623.- 624.

4. A working system similar to that used by  
 economists providing credits to be earned by the  
 prisoner as a condition of increased privileges or  
 release from control based upon good behavior.  
 5. Alliances in labor and other, and economic cooperation;  
 and efforts for cooperation, negotiation and influence.  
 6. Factors based upon the learning system and upon  
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 After a detainee has made his satisfactory progress  
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may die from physical infirmities, if kept, may receive a parole if his family or friends are willing to take care of him. In regard to the grading, six months of good behavior in the second class brings promotion to the first and six months good behavior in the first entitles one to possibility of parole. Bad behavior reduces a man to a lower grade. The different grades are distinguished by different clothing.

A marking system is used so as to serve as an incentive. Each has his personal account on which are listed his wages and expenses, such as clothing, meals lodging and fines. At the end of his term a man may have money coming to him from his work in the reformatory.

The food given varies according to the grade of the prisoner. All have the same quality but differ in the amount received. Each man has a room eight feet long and seven feet wide. The first suit of clothes is furnished by the institution while the others must be earned. Fines are imposed for breaking the rules.

As regards punishment it is so rare that it is almost negligible. Only twelve out of 2800 were bad enough to receive solitary confinement. This shows

may also show physical infirmities, it may, may receive a parole if his family or friends are willing to take care of him. In regard to the treatment, six months of good behavior in the second class brings promotion to the first and his mother's good behavior in the first entitles him to possibility of parole. Good behavior reduces a man to a lower grade. The different grades are distinguished by different clothing.

A working system is used so as to have an incentive. Each man has personal account on which are placed his wages and expenses, such as clothing, meals, lodging and drink. At the end of his term a man may have money coming to him from his work in the penitentiary.

The food given varies according to the grade of the prisoner. All have the same clothing but differ in the amount received. Each man has a room with two beds and seven feet high. The first suit of clothes is furnished by the institution while the others must be earned. There are imposed for breaking the rules. As regards punishment it is no more than it is almost negligible. Only twelve out of 2500 were bad enough to receive solitary confinement. This shows



the psychological effect of having a system where prisoners may be advanced from a lower grade to a higher grade.

The trade school is supervised by a citizen officer with some inmate instructors. A certain number of hours is allowed to a man for learning a trade. Examinations are given. If the prisoner passes the test he takes the next higher grade of work until he has completed all the work of his particular trade. Then he either makes repairs or is assigned as an inmate instructor. The moral education is in the hands of three clergymen, Catholic, Jewish, Protestant. All prisoners are required to take physical and military training unless excused by the superintendent<sup>1</sup> at the advice of a doctor.

Though New York was first to establish such a reformatory, by the year 1921 eighteen other states had established such institutions. At the present time, however, instead of classifying by age and the number of convictions a new method is being advanced. It is classification determined by physical, mental and social investigation.

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<sup>1</sup>.

J. L. Gillin, op. cit. 624, 627.

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### SELF- GOVERNMENT

Self- government or prison democracy for adults owes its origin to Mr. Thomas Mott Osborne of Auburn, New York, in 1913. Being appointed a member of a commission to study the prisons in the State of New York he spent a week as prisoner in Auburn prison so that he might get first hand information about conditions. After this "voluntary imprisonment" he formed a Good Conduct League to be run by the inmates themselves. Later it took the name of the Mutual Welfare League. As organized at Sing Sing Prison, New York, its make- up was simple. Each industrial or maintenance unit elected a representative to the governing board of the League. The elections were carried on without any force from the authorities. From the fifty members elected, a secretary was chosen together with an executive committee of nine. There were several sub- committees **each** controlling one sphere of activity. Disciplinary cases were heard by the court made up of the chosen convicts and decisions made. One punishment was expulsion from the League with loss of all privileges. An appeal however could be made to the warden's court. At Sing Sing election

## SELF-GOVERNMENT

Self-government or direct democracy for adults was first applied to Mr. Thomas West Osborne of Auburn, New York, in 1913. Being appointed a member of a commission to study the problem in the State of New York he spent a week as prisoner in Auburn Prison so that he might get first hand information about conditions. After this "voluntary imprisonment" he formed a Good Citizens League to be run by the inmates themselves. Later it took the name of the Auburn Prison League. An organized of 2000 strong Prisoners, New York, its make-up was simple. Each inmate or maintenance unit elected a representative to the governing board of the League. The elections were carried on without any form of the ballot. From the fifty members elected, a committee was chosen together with an executive committee of nine. There were several sub-committees each controlling one aspect of activity. Incidentally cases were heard by the board made up of the chosen convicts and assistants made. The prisoners are separated from the League with issue of all privileges. An appeal however could be made to the warden's board. At Sing Sing election



to the Board of Directors was held every four months. There were no keepers or guards in the shops but the number was increased on the walls. The league had charge of all recreation and entertainments and attendance was limited to members of the League who were in good standing. The members released from prison were supposed to try to find employment for their fellow members who were about to be released.

The underlying principle of the idea was that men in prison must be prepared to conduct themselves in an agreeable manner when released. It was thought to develop respect and loyalty to each other; to train good citizens. Though this scheme was an admirable one to provide social re-education it had its weaknesses. Osborne tried to apply it to all inmates although there were some too depraved to be affected by its advantages. Mr. Calvin Derrick, in his attempt to install self-government in the Preston School of Industry at Ione, California avoided the mistake of Osborne when he classified and excluded certain cases<sup>1.</sup> which needed close supervision.

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Gillin, op. cit. 517.

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which needed close supervision.

Ellis, op. cit. 217.



## CRITICISM OF THE GOOD- CONDUCT LEAGUE

In stating the charges against prison democracy, Gillin gives the following three:-

1. It lessens productivity.
2. The organization is run by a certain few and apparently for selfish ends. Therefore its influence is not for the benefit of the state or the convicts in general.
3. It was charged by certain parties soon after the establishment of the Welfare League at Sing Sing that there had been great increase in stabbing in the institution. A study of the records in Sing Sing in the latter part of 1915 showed this was untrue. (1)

The same author sums up advantages claimed.

1. The repressive influences which make men rebellious in prison have been supplanted by a system which puts responsibility upon the prisoners for the good conduct of the institution. The number of escapes is greatly decreased under prison democracy. In the seven years prior to September thirtieth, 1915 there had been an average of over nine escapes per year from Sing Sing.
2. In 1915 under self- government there were only three. The reason for this is suggested by Mr. Osborne who says: "When the first escape occurred after the new system went into operation the prisoners feared that their new privileges would be taken away. They considered that the prisoner who had escaped had double crossed his pals."
3. Mr. Osborne claimed that production in the prison increased after the new system went into effect. For example the number of shoes turned out increased from 37,600 pairs in 1911 to 69,300 pairs in 1915.
4. The prisoner leaves the institution with an entirely different spirit under the new system.
5. By providing the opportunities for self- government the prison organized on the plan of prison democracy prepares a man for democratic control on the outside.

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1.

Gillin, J. L. op. cit. p. 519, 521.





In commenting upon prison democracy we should admit that not all prisoners should be allowed to participate in it. Those hopeless cases of defectives and degenerates found in every prison are a detriment to the work done by the corrigible. They should be segregated at the outset by experts in psychiatry after thorough examinations and tests.

#### PRISON LABOR

A perplexing problem in every prison is what to do with the prisoners. Prison idleness cannot be justified on any grounds. It is one of the outstanding problems of prison life. Governor Ely of Massachusetts in his inaugural address, January fifth, 1933, makes special mention of the need of labor of prison inmates. "All who have studied the subject of the rehabilitation of those confined in our penal institutions agree upon the necessity of providing something for the inmates to do. Our statutes require confinement to hard labor as a punishment, although I can think of no greater penalty than to be confined to absolute inaction. The problem is to fit these inmates for some useful service

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when at the end of a limited term, they are returned  
 to society."<sup>1.</sup>

Yet in only five states is there work enough for all who are able to work. These states are Massachusetts, Connecticut, Oklahoma, Wisconsin and Minnesota. Aside from the beneficial results to the inmates the problem of prison labor must be considered seriously in order to keep down the enormous cost of penal institutions. It is estimated that a minimum of about \$50,000,000 was essential for a years program in the United States.<sup>2.</sup>

There are several purposes for labor in prisons contained in the five given by Gillin:-

1. The alleviation of the tedium of prison life by means of an occupation.
2. The use of hard labor as a means of repressing crime.
3. The labor of prisoners for the production of economic commodities to decrease the cost of support.
4. The use of labor as a means of reformation. (3)
5. The use of labor as a means of prison discipline.

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1.

Joseph Ely- Inaugural Address, January 1933.  
 Boston Traveler, January 5th, 1933.

2.

N. Cantor, op. cit. p. 300.

3.

J. L. Gillin, op. cit. p. 428.

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Although in early English prisons there was prison labor, the burden upon the officials became so great that by 1792 the managing end was given to contractors. This soon resulted in the weakening of discipline. This was due to the fact that the contractor had in mind his own gain and thought nothing of the good or bad effects his method had on the prisoner. This system also led to favoritism. The prisoner skilled or experienced in some line was the one who received special favors from the officials regardless of the crime for which he was imprisoned. Labor unions also opposed prison labor of this sort since their members found it difficult to compete with the cheaper prison labor.

By 1830 contractors had almost complete control of prison labor in the United States at a very low cost. They paid the state about one half what it would cost using free labor. There was not the opposition from free labor in the United States at that time as in England since the demand for products was greater than the supply. It came later, however, and is now a serious objection. To modify the objection, in 1842 the committee on state prisons of New York suggested that the inmates produce to the largest extent possible

Although in early English literature the  
 Greek letter, the one upon the capital's  
 as used by 17th century and the  
 century. This was found in the  
 election. This was the fact that the  
 character was in with his own and though nothing  
 of the good or bad effects his death had on the  
 nation. This again also led to the election. In  
 the election of 1740 or 1741 in some line was the  
 and the received capital letters from the officials  
 the election of the capital for which he was  
 later election was opposed; when later of this fact  
 since the capital letters is difficult to compare with  
 the election of 1740.  
 By 1740 the character had almost complete control  
 of the election in the United States at a very low cost.  
 They said the election was not what it would be  
 during the election. There was not the opposition from  
 first in the United States as that was in  
 England and the election for president was first in  
 the country. It came later, however, and it was a  
 election election. To really the election, in 1740  
 the election on state election of New York suggested  
 that the election produce to the largest extent possible



the articles that they themselves could consume or  
that could be consumed by the State Lunatic Asylum. <sup>1.</sup>

Primarily the object of prison labor should be the reformation of the inmates. "The condition of idling and loafing strikes at the very root of reformatory prison administration, which holds as a basis in bettering the convict for return to the world that he should be taught manual dexterity in industry and reconciliation to the habit of useful employment." <sup>2.</sup>

There are now five labor systems of employing prisoners in the United States namely; the contract, lease, piece- price, public- account and states- use systems. Under the contract system the state furnished the buildings, heat, light and power; the contractor supplies the machinery and material. The state furnished the guards but the contractor, the supervision of the work. This type resulted in almost slavery of the prisoners. As an example we can cite the Wetumpka Prison at Alabama where in the underwear factory the inmates work from six A. M. to six P. M. for fifteen cents per week. Fortunately the contract system is little used now. <sup>3.</sup> The contractor of prison

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1.

O. F. Lewis. The Development of American Prisons and Prison Customs. 1776- 1845, p. 145.

2. Report to the Commission of Sub- Commission of New York State, 1929, p. 6.

3. Cantor, op. cit. p. 303.

the articles that they themselves could compare or  
that could be compared by the State Economic Agency.  
Possibly the effect of prison labor should be

the restoration of the industry. "The creation of

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the Michigan Prison at Alcona where in the winter

season the inmates work from six A. M. to six P. M.

for fifteen cents per week. Fortunately the contract

system is little used now. The contractor of prison

1. O. V. Lewis, The Development of American Prisons and  
Prison Systems, 1776-1925, p. 145.  
2. Report to the Commission of Anti-Conviction of  
New York State, 1902, p. 8.  
3. Journal of Crim. L. 1902.



made goods has an unfair economic advantage over the manufacturer using free labor when both put their goods on the market for sale. The result is that great opposition to the system has arisen.

In the Lease System the control of the prisoners is entirely in the hands of the lessee. As soon as a man is convicted he is let out to some lessee. It was a system confined mostly to the Southern States and is being abolished even there. It is the worst form of enforced labor and most inhuman. Examples of the worst kind come from the camps of Florida and Alabama. The piece- price system is where by the contractor furnishes the material but the supervisor is entirely in the hands of the officials of the prison. The contractor pays to the State a certain amount of money according to the work done on the article he accepts. Hence there is no clashing or prison official and outside supervisors.

The state- use system is another used in some penal institutions. By this plan articles are manufactured but not sold in the open market. What are not used by the inmates themselves are sent to other institutions. Hence there is no direct competition with free labor. There is, however, an

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 other institutions. Hence there is no direct  
 competition with free labor. There is, however, an



indirect one for when articles are made in the institution the market is more restricted for the same articles when made by free labor. There is, however great inefficiency in the manufacturing in a penal institution because of the type of workmen and other institutions are not always desirous of securing articles made under such conditions. In New York this system lacked good results.

There is still another type of prison labor called the public- account system. The institution supplies everything from labor to material and shops. In addition the institution assumes responsibility for the sale of such articles as it manufactures. The entire project is under the control of the state and loss or gain is in the hands of the officials and no one else. Minnesota and Wisconsin have been very successful in the manufacture of binder twine for harvesting machinery in this way. In Minnesota the manufacturing of farm machinery has been successful<sup>1.</sup> and profitable.

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1.

Gillin, op. cit. p. 438.

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 and other limitations are not always conscious of  
 securing articles made under such conditions. In  
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There is still another type of prison labor called  
 the public-aid system. The institution supplies  
 everything from labor to material and shops. In  
 addition the institution assumes responsibility for  
 the sale of such articles as its manufactures. The  
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 loss or gain is in the hands of the officials and no  
 one else. Minnesota and Wisconsin have been very  
 successful in the manufacture of winter tires for  
 traveling machinery in this way. In Minnesota the  
 manufacturing of farm machinery has been successful  
 and profitable.



There is still another system which to many is put under the state- use system. It is the public works and ways. Here labor of the inmates is used for the construction and repair of public buildings, roads, parks and the like. It is used most widely in Colorado. The Bureau of Labor Statistics at Washington in 1923 gives us some idea of the type of system used in the various institutions. Of 84, 761 convicts, 51, 262 or sixty percent were employed at productive labor according to the following table;

Contract	12%
Piece Price	6%
Public Account	26%
State use	37%
Public works	19%

Prison labor has many difficulties which must be solved. The most recent is the passage of the Hawes-Cooper Act passed by Congress in 1929 and to take effect in 1934 declaring that convict made goods are to be prohibited from being sold outside of the state where they are ordered for sale. It may mean that more prisoners will be idle with the market more confined. The problems which are not yet settled in regard to prison labor as enumerated by Gillin as follows:

1. Gillin, op. cit. p. 438

There is still another system which is used in  
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 Colorado. The Bureau of Labor Statistics at Washington  
 in 1905 gives us some idea of the type of system used  
 in the various institutions. Of 64, 761 convicts,  
 61, 603 or ninety percent were employed at productive  
 labor according to the following table:

12%	Contract
8%	State Prison
26%	Public Account
27%	State and
19%	Public works

Prison labor has many difficulties which must be  
 solved. The most recent is the passage of the Inmate  
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 some prisoners will be able with the market more  
 continued. The problem which are not yet settled in  
 regard to prison labor are enumerated by Gillin as  
 follows:



1. The best system of prison labor taking into account all the purposes of such labor.

2. The unproductiveness of prison labor is tied up with the well known inefficiency of prison labor.

3. The relation of prison industries to free industries.

4. The problem of reconciling productively with the reformatory purposes of the correctional institution.

5. The problem of payment of a wage to prisoners.

The question of inefficiency has long been a question. Perhaps it is the character of the men in prison. Donald Lowrie, in his book "My Life in Prison" tells that of 2000 men in San Quentin Prison 1800 are able-bodied. They should be able to support eight or ten thousand people and yet they cost the State of California an average of \$200,000 a year.<sup>1.</sup>

In answer to the first question of Gillin as to which plan of prison labor is the best, Cantor advocates the state-use system as the soundest theory of prison labor. There, private control and greed are eliminated.

#### PAYMENT OF PRISONERS FOR LABOR

There is still another angle by which officials might seek efficiency and that is by paying the prisoner. It is claimed by Warden Reed of Stillwater Prison that a payment of a wage to a prisoner has

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1.

Donald Lowrie, My Life in Prison, p. 64.

1. The first aspect of prison labor is the question of the purpose of such labor.
2. The second aspect of prison labor is the question of the method of payment of prison labor.
3. The third aspect of prison labor is the question of the control of prison labor.
4. The fourth aspect of prison labor is the question of the effect of prison labor on the prisoner.
5. The fifth aspect of prison labor is the question of the effect of prison labor on the public.

The question of the purpose of prison labor is the first question that arises in the mind of the public. It is the question of the character of the work that the prisoner is to do. Is it to be a punishment for the crime? Is it to be a means of earning money for the prisoner? Is it to be a means of earning money for the state? Is it to be a means of earning money for the public? The answer to this question is the first question that arises in the mind of the public.

The second question that arises in the mind of the public is the question of the method of payment of prison labor. Is the prisoner to be paid for his work? If so, how much? Is the prisoner to be paid for his work? If so, how much? The answer to this question is the second question that arises in the mind of the public.

The third question that arises in the mind of the public is the question of the control of prison labor. Is the prisoner to be controlled by the state? Is the prisoner to be controlled by the public? Is the prisoner to be controlled by the prison? The answer to this question is the third question that arises in the mind of the public.

The fourth question that arises in the mind of the public is the question of the effect of prison labor on the prisoner. Is prison labor to be a punishment for the crime? Is prison labor to be a means of earning money for the prisoner? Is prison labor to be a means of earning money for the state? Is prison labor to be a means of earning money for the public? The answer to this question is the fourth question that arises in the mind of the public.

The fifth question that arises in the mind of the public is the question of the effect of prison labor on the public. Is prison labor to be a punishment for the crime? Is prison labor to be a means of earning money for the prisoner? Is prison labor to be a means of earning money for the state? Is prison labor to be a means of earning money for the public? The answer to this question is the fifth question that arises in the mind of the public.

#### PAYMENT OF PRISON LABOR

There is still another angle by which attention is attracted to the question of prison labor. It is the question of the effect of prison labor on the public. Is prison labor to be a punishment for the crime? Is prison labor to be a means of earning money for the prisoner? Is prison labor to be a means of earning money for the state? Is prison labor to be a means of earning money for the public? The answer to this question is the fifth question that arises in the mind of the public.



aided greatly the matter of discipline and has increased efficiency to a great degree. In some cases it has doubled the efficiency of output of prison industries.<sup>1.</sup>

The State of Massachusetts has been a leader in this movement. Edward C. R. Bagely, Deputy Commissioner of the Department of Correction of Massachusetts has summed up the policy of his state. "The laws (of Massachusetts) provides that fifty percent of the money earned by prison labor is sent home to the dependents of the individual. Half of the balance, remains on deposit at the institution, or in the bank, for them. It is given to them when it is time for their release. They are allowed to spend some of the balance in the institution on such articles as they may desire. At Christmas in 1930 some twenty- six thousand dollars were dispensed to the families of the men."<sup>2.</sup>

1.

Report of the Committee on Compensation of Prisoners, 1917, Congress of American Prison Association.

2.

E. C. R. Bagely, Proceedings of the 60th Annual Congress of the American Prison Association 1930, p.143.

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thousand dollars were dispensed to the families of the

men.

Report of the Committee on Organization of Prisoners,  
 1917, Congress of American Prison Association.

E. C. R. Murphy, proceedings of the 1930 Annual  
 Conference of the American Prison Association 1930, p. 123.



At the present there is a movement in Massachusetts for the repeal of prison wage laws. Prison officials oppose such a measure, fearing rioting and sabotage. Commission of Correction, Francis B. Sayre, expressed his opinion in the Boston Daily Record, March fifteenth, 1933. "There is no doubt that if their wages were taken away from them the tranquility of the prison would be broken. Furthermore the present system has kept down the welfare relief cost of towns and cities. In 1932 prisoners earned \$43,181 of which \$27,000 went<sup>1.</sup> to their dependents."

The payment of wages might give to many prisoners a different mental attitude. As they live day after day in prison the thoughts of those left at home must come to some of them at least. Crime does not wipe away every memory of a wife and family suffering because of the wrongs of a father or a brother. Again where is the justice in making innocent children suffer privation and want because of the sins of another? Payment of wages would certainly help to relieve their sad plight. Some States have taken up the problem and

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1.

Francis B. Sayre, Boston Daily Record, March 15, 1933, p. 9.

At the present there is a movement in Massachusetts  
for the purpose of prison reform. Prison officials  
oppose such a measure, fearing loss of money and influence.  
Commission of Correction, Francis B. Fay, expressed  
his opinion in the Boston Daily Record, March 15, 1902.  
"There is no doubt that it is a very serious  
question, from the standpoint of the prison  
system as a whole. Furthermore the present system has  
been shown to be entirely unfit for the purpose of  
reform. The system is a relic of the past and is  
in 1902 entirely obsolete, and it is worth \$10,000,000  
to build a new one."

The system of prison reform is a very serious  
question. It is a question of the future of the  
prison system. It is a question of the future of  
the state. It is a question of the future of the  
people. It is a question of the future of the  
world. It is a question of the future of the  
human race. It is a question of the future of  
the universe. It is a question of the future of  
the God of the universe.

Francis B. Fay, Boston Daily Record, March 15,  
1902, p. 2.



others are following. Twenty- seven have a more or less definite plan of paying wages.<sup>1.</sup>

Those opposing the payment of a wage based their argument on the following facts:-

1. Criminals are a heavy burden to the State.
2. It is unconstitutional to pay.
3. Money in the hands of prisoners is a dangerous thing. If an ex- prisoner has money he will not look for work until the money is gone. (2)

More arguments seem to be given in defense of payment of wages than those advanced against payment. They may be summarized as follows:-

1. The criminal law provides for the deprivation of the convicts liberty only; it does not include the right to wages beyond the cost of maintenance.
2. Some institutions are doing it without a loss from the profits of goods sold.
3. Payment of a wage to prisoners is an effective means of their rehabilitation.
4. The practice makes easier discipline in the prison.
5. It increases industrial efficiency.
6. It **reduces** the demands upon charity for support of the family of the convicted man.
7. It allows prisoners to make restitution where it is possible.

"On the whole, therefore, must we not conclude that prisons should be so managed that a wage may be paid to all those who are capable of work."<sup>3.</sup>

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1. J. L. Gillin, op. cit. p. 464.
  2. J. L. Gillin, op. cit. p. 464.
  3. J. L. Gillin, op. cit. p. 468.





## PROBATION AND NON- INSTITUTIONAL CARE OF DELINQUENTS

Non- institutional care of delinquents has become one of the most progressive features of modern penology. One form of it called probation, applies to offenders before being sent to an institution. Parole, with which it is sometimes confused, relates to a person released from the walls of an institution yet under control of the authorities of the institution. It is a means of testing the delinquent to see if he is ready to be restored to society and live in harmony with those around him.

Let us first treat probation. There is always a first time even to committing a crime. Correction before that act becomes a habit, is easier than after it becomes fixed. Probation is for such cases. The convicted person is told that the commitment to an institution is held off and he is to be given a chance to show that he can conduct himself properly. Therefore, for a certain length of time he is to be checked up by reporting to a certain officer at appointed times. If the conditions laid down are satisfactory then the delinquent is to go free without

## PROTECTION AND NON-INTERVENTION CASES

## DEFINITIONS

Non-intervention case of delinquency has become one of the most progressive features of modern penology. The term of its origin protection, applies to delinquents before being sent to an institution. Before, with which it is normally connected, related to a person released from the walls of an institution for under control of the authorities of the institution. It is a means of testing the delinquent to see if he is ready to be restored to society and live in harmony with those around him.

Let us first treat protection. There is always a time when you are committing a crime. Correction before that and becomes a habit, is easier than after it becomes fixed. Protection is for such cases. The convicted person is told that the commitment to an institution is made off and he is to be given a chance to show that he can conduct himself properly. Therefore, for a certain length of time he is to be checked up by reporting to a certain officer at specified times. If the conditions laid down are satisfied, then the delinquent is to go free without



even being sent to an institution. If the conditions of probation are broken then the delinquent will find himself within the walls of an institution. Probation like many other improvements started with the treatment of juveniles and then applied to adult offenders.

In 1878 a probation officer was appointed for the city of Boston and in 1891 a law was passed requiring the criminal courts throughout the State of Massachusetts to appoint a probation officer. By 1921 thirty-five states and the District of Columbia had adult probation systems. Not all, however, are mandatory. Due to the good results observed, probation has been extended to apply to a greater and greater number of crimes although it does its greatest work among juvenile offenders.<sup>1.</sup> As to the results of probation we might use the data of The Massachusetts Commission on Probation covering a period of eight years and including over 2,000 cases. The report says that ninety-seven percent of those who obeyed the probation rules and were given their freedom were not committed for subsequent offences.<sup>2.</sup>

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1.

Charles L. Chute, "Probation in Children's Courts" Federal Children's Bureau, No. 80. p. 9.

2.

Report of the Commission on Probation, Massachusetts. Senate Document, 431. 1924.

even being used as an illustration. If the conditions of protection are broken then the defendant will be liable within the scope of the illustration. Protection of property and its improvement is treated with the protection of reputation and then applied to adult offenders.

In 1901 a protection officer was appointed for the city of London and in 1901 a law was passed regarding the protection of property and its improvement.

The protection officer is appointed by the local authority and is responsible for the protection of property and its improvement.

Section 1 of the Act states that the protection officer is responsible for the protection of property and its improvement.

Section 2 of the Act states that the protection officer is responsible for the protection of property and its improvement.

Section 3 of the Act states that the protection officer is responsible for the protection of property and its improvement.

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Section 8 of the Act states that the protection officer is responsible for the protection of property and its improvement.



In a study of the New York State Probation Commission including 100,000 adults put on probation for fourteen years ending 1921, seventy-seven percent whose probation terminated during that period were successful.<sup>1.</sup> A recent Baltimore study, however, does not offer such good testimony of the good results of probation.<sup>2.</sup> However, New York State saw fit to spend a quarter of a million dollars in 1925 to establish a bureau of adult probation.<sup>3.</sup> Ex-Governor Roosevelt has been quoted as author of the following words. "In our state we have placed 250,000 offenders on probation within the last twenty-four years. We are now placing more than 25,000 yearly, as our courts and judges have become convinced of the value of the probation in reducing crime."<sup>4.</sup>

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1.

J. L. Gillin, op. cit. p. 822.

2.

J. M. Hepbron, "Probation and Penal Treatment in Baltimore" Journal of Criminal Law and Criminology, Volume 12, pp 64, 74

3.

N. Cantor, op. cit. Crime, p. 342.

4.

Quoted in Criminal Law & Criminology, Volume XXIII No. 4, November, December, 1932, p. 639.

Criminal Report of the Commissioner of Correction, Commonwealth of Massachusetts, Public Document 116, 1921, p. 56.

In a study of the New York State Probation Commission including 100,000 adults put on probation for fourteen years ending 1931, seventy-seven percent of those probation terminated during that period were successful.<sup>1</sup> A recent Baltimore study, however, does not offer such testimony of the good results of probation.<sup>2</sup> However, New York State has 714 to 720 a number of a million dollars in 1930 to extend a system of adult probation.<sup>3</sup> Mr. Governor Roosevelt has been quoted as author of the following words: "In our state we have placed 250,000 offenders on probation within the last twenty-four years. We are now placing more than 25,000 yearly, as our courts and judges have become convinced of the value of the probation in retarding crime."<sup>4</sup>

1. J. E. Gillis, op. cit. p. 228.
2. J. W. Haggan, "Probation and Penal Treatment in Baltimore" Journal of Criminal Law and Criminology, Volume 12, pp 64, 74.
3. J. E. Gillis, op. cit. p. 228.
4. Quoted in Criminal Law & Criminology, Volume XXIII No. 4, November, December, 1932, p. 459.



Even where probation has not come up to expectations it has been found that it is not the fault of the principle but the fault of the administration. The report of the Chicago Crime Commission bears out the truth of this. For, in its report which showed an increase of serious crimes it attributed their impact to the administration of probation in the case of adults. Chute showed that the State of Illinois at that time did not have sufficient number of trained probation officers. The Crime Commission itself did not find fault with probation but with the administration of it.<sup>1</sup> Those who have studied the subject do not claim that it is error-proof. It must not be forgotten that even with our scientific knowledge it is not always possible to tell just who will respond to the method. But probation is one means of adjusting more perfectly the treatment to the individual.<sup>2</sup> Sanford Bates says that, "The need of wise probation treatment is evident when one considers that a large

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1.

Charles L. Chute, op. cit. The Crime Wave and Probation, The Survey. April 16, 1921, p. 79, 80/

2.

Criminal Report of the Commissioner of Correction, Commonwealth of Massachusetts, Public Document 115, 1921, p. 55.

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1. Charles E. Hughes, op. cit. The Crime Wave and Probation, The Survey, April 12, 1921, p. 78, 80.  
2. Criminal Report of the Commissioner of Correction, Commonwealth of Massachusetts, Public Document 112, 1921, p. 22.



proportion of our present day crime involves no great<sup>1.</sup> moral turpitude."

Probation is hampered by a lack of trained people to give psychological and social tests. Consequently many cases are given probation which never should be, because they are not fitted for such treatment.

However, probation is a means of salvation to many who without it might be contaminated by associations met inside prison walls.

Viewed from a financial standpoint, probation is cheaper. The average cost of supporting a man in prison is \$439. 39, while the cost of one year's probation supervision is \$28.39.<sup>2.</sup>

"There can be no doubt", says Gillin, "that probation represents an enormous saving in money in those cases where it can be applied without danger to society. It cannot be applied to all cases but is

1.

Sanford Bates, quoted in Criminal Law & Criminology, Volume XXIII, No. 4. November, December, 1932, p. 640.

2.

Chute, op. cit. "The Probation System: What it is: What it may become". Bulletin of the National Society of Penal Information. December, 1923, p. 9.

1.

Gillin, op. cit. p. 220.

2.

Judge Cockran quoted in article on "The United States Probation System, Criminal Law and Criminology, Volume XXIII, No. 4, November, December 1932, p. 637.

protection of our present day order involves no great  
moral struggle."

Protection is hampered by a lack of trained people  
to give psychological and social tests. Consequently  
many cases are given protection which never should be,  
because they are not fitted for such treatment.  
However, protection is a means of relief for many who  
without it might be condemned by associations not  
desire to help.

Viewed from a financial standpoint, protection is  
cheap. The average cost of supporting a man in  
prison is \$250.00, while the cost of one year's  
protection supervision is \$25.00.

"There can be no doubt," says Gillin, "that  
protection treatment is an enormous saving in money in  
these cases where it can be applied without danger to  
society. It cannot be applied to all cases but is

1. Sanford Bates, quoted in *Criminal Law & Criminology*,  
Volume XXII, No. 4, November, December, 1932, p. 640.

2. Glueck, E. C. "The Protection System What It Is;  
What It Has Become." *Journal of the National Society*  
of Social Workers, December, 1933, p. 2.



especially applicable to family desertion, non-support and certain forms of crime against property. Since these represent the largest percentage of crime the monetary importance is significant."<sup>1.</sup>

In summary, we may say that if society wishes to save the first offender and the young, probation is a means. Often times it is impossible to be sure who is a first offender, but with officials becoming more and more trained the good results will increase and the bad points diminish if we make use of experience. Of course the probation process is not intended for all offenders. It is for the selected few, picked in many cases by the psychiatrist. It is on the way to adoption in all our criminal courts in dealing with the problem of crime.<sup>2.</sup>

Gillin lists certain principles which must be observed in probation work.

(1) Good probation work must be based on;

1. Thorough investigation.
2. Investigation and treatment must be individualized.
3. The term of probation should not be fixed in advance.
4. The home and neighborhood must be used to rehabilitate those on probation especially juvenile offenders.

1.

Gillin, op. cit. p. 826.

2.

Judge Cockran quoted in article on "The United States Probation System, Criminal Law and Criminology. Volume XXIII, No. 4, November, December 1932, p. 639.

essentially applied to the family description, and support

and certain forms of other general property. Since

these treatments are largely composed of what the

necessary treatment is also shown.

In summary, we may say that it is not only within the

last few years of the century, but also, perhaps, in a

more. Often there is a tendency to be sure that it

is not obvious, but with ordinary knowledge and

the same old good knowledge will improve and the

same should be the case of knowledge. Of course

the question grows as we attempt to do all of them.

It is not the subject of, which is many times by the

authorities. It is in the way to explain in all of

the same way in dealing with the question of crime.

Again this is a certain principle which must be

observed in practice.

(1) That treatment work must be based on:

1. The same investigation.

2. Investigation and treatment must be individual.

3.

4. The form of treatment should not be fixed in

advance.

5. The best and best method must be used to

reach the same or similar results.

6.

7. The same, or, at least, the same.

8.

9. The same, or, at least, the same.

10. The same, or, at least, the same.

11. The same, or, at least, the same.



5. Both diagnosis and treatment must take account of physical and mental conditions.

6. Special social organizations and groups may profitably be used supplementary to the regular probation officers in certain cases.

7. A definite plan should be formulated for the client.

8. Probation officers should be trained.

9. Probation officers must be well paid.

10. Supervision should not be lax nor too close.

11. Each case must be handled by the case work method.

12. Probation should be extended to rural communities.

13. State supervision is necessary for effective work. (1)

## PAROLE

Parole is the release of a prisoner from an institution who remains under the supervision of some authority. A convicted man is sentenced to serve not less than a certain length of time or not more. Parole or release from the institution can come at some time in between. The way in which he acts while in prison determines the time at which he may be paroled. Its aim is laudatory; it seeks to restore the delinquent to his place in society as soon as possible.

1.

J. L. Gillin, op. cit. pp. 831- 840.

6. Each inmate and prisoner must take account of physical and mental conditions.
7. Special social organization and group work should be used judiciously in the regular institution.
8. A definite plan should be formulated for the future.
9. Protection officers should be trained.
10. Protection officers should be well paid.
11. Supervision should not be too close.
12. Each case must be handled by the case worker.
13. Protection should be extended as far as possible.
14. Social cooperation is necessary for effective work.

## CONCLUSIONS

There is the release of a prisoner from an institution who remains under the supervision of some authority. A convicted man is released in some way or other. A certain length of time or not more. There is release from the institution on some kind of parole. The way in which he acts while in prison determines the time at which he may be released. It is necessary; it needs to restore the delinquent to his place in society as soon as possible.



Parole is possible from three different kinds of institutions in the United States, namely, state prisons, reformatories and industrial schools for juvenile delinquents. Since 1910, parole of Federal prisoners has been possible except those serving life sentence<sup>1.</sup> and since 1913 even those became eligible.

While it is impossible to determine the exact number of successful parole cases it is the opinion of those who have given time to the study of the method it is an important device in the treatment of criminals. The question is who should be paroled and how soon. The following principles have been suggested by Gillin:

1. Careful diagnosis of the prisoners by experts.
2. Selection for parole only those whose release ~~will~~ not outrage the sense of justice of the community from which they came.
3. Selection for parole only those inmates, the study of whom shows that they will probably do well on release.
4. Proper employment should always be secured before a convict is paroled.
5. Placement in proper surroundings.
6. The institution must prepare for parole.
7. Careful follow-up is absolutely necessary.
8. Cooperation with public and private social agencies.
9. Most states should have full time paid parole board.
10. Paroles and pardons should be under the same board.

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1.

Barnes. Journal of Criminal Law & Criminology, Volume XIII, August 1922, p. 175.

There is a general feeling that the United States is the only country in the world where the individual is free to express his opinions. This is a very general statement and one that is not always true. In many cases, the individual is not free to express his opinions. This is especially true in the case of the Negro. The Negro is not free to express his opinions in the same way as the white man. This is a very general statement and one that is not always true. In many cases, the individual is not free to express his opinions. This is especially true in the case of the Negro. The Negro is not free to express his opinions in the same way as the white man.

The following are the reasons why the Negro is not free to express his opinions in the same way as the white man:

1. The Negro is not free to express his opinions in the same way as the white man because he is not free to express his opinions in the same way as the white man.
2. The Negro is not free to express his opinions in the same way as the white man because he is not free to express his opinions in the same way as the white man.
3. The Negro is not free to express his opinions in the same way as the white man because he is not free to express his opinions in the same way as the white man.
4. The Negro is not free to express his opinions in the same way as the white man because he is not free to express his opinions in the same way as the white man.
5. The Negro is not free to express his opinions in the same way as the white man because he is not free to express his opinions in the same way as the white man.
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7. The Negro is not free to express his opinions in the same way as the white man because he is not free to express his opinions in the same way as the white man.
8. The Negro is not free to express his opinions in the same way as the white man because he is not free to express his opinions in the same way as the white man.
9. The Negro is not free to express his opinions in the same way as the white man because he is not free to express his opinions in the same way as the white man.
10. The Negro is not free to express his opinions in the same way as the white man because he is not free to express his opinions in the same way as the white man.



11. This board should be composed not of political appointees but of men of intelligence and integrity having experience in such matters.

12. The responsibility for paroles should rest upon this record.

13. Paroles success is connected with the extension of the indeterminate sentence.

14. Parole officers must be numerous enough and well trained enough to give adequate supervision. (1)

### INDETERMINATE SENTENCE

"The indeterminate sentence is a device by which the termination of imprisonment is left within limits of minimum and maximum penalties fixed by the court or legislature, to administrative board."<sup>2</sup> It differs from parole in that a person with an indeterminate sentence once he has been released from an institution is really discharged and not under the supervision of that institution in any way.

About 1889, New York passed an indeterminate sentence law, but the courts used it very little at that time. Now most states have it if they wish to employ it for certain types of crime. It has, however, some strong objections. Some of them as given by Sutherland are;

1. The indeterminate sentence takes into account nothing but the reformation.

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1.

J. L. Gillin, op. cit.

2. E. H. Sutherland, op. cit. p. 510.

11. This board should be composed not of political appointees but of men of intelligence and integrity having experience in such matters.
12. The responsibility for paroles should rest upon this board.
13. Parole success is connected with the character of the individual sentenced.
14. Parole officers must be numerous enough and well trained enough to give adequate supervision. (1)

# LEGISLATIVE MATTERS

"The legislative sentence is a device by which the legislature at Washington is left with little of choice and without penalties fixed by the courts or legislative enactments." It differs from parole in that a person with an indeterminate sentence once he has been released from an institution is really discharged and not under the supervision of that institution in any way.

About 1900, New York passed an indeterminate sentence law, but the courts held it very little of that time. New York later have it if they wish to apply it for certain types of crime. It has, however, some strong objections. Some of them are given by

Washington Post

1. The indeterminate sentence takes into account nothing but the sentence.



2. There is no satisfactory method of determining when a prisoner has reformed.

3. The feeling of guards toward prisoners might determine the length of time in an institution.

4. Prisoners tend to work for good reports rather than for reformation.

5. It is unconstitutional in some states.

6. There are not men sufficiently trained for such work and many unsuitable would be appointed. (1)

Because of the recent apparent failure of the pardoning power of the Governor of Massachusetts and his Council this question of the indeterminate sentence is brought to the attention of the public in many newspaper articles.

Chairman Frank A. Brook of the Massachusetts State Board of Parole believes that the present policy of allowing a judge to sentence an offender to an indeterminate sentence is not the best one. Neither does he think that the determination of the length of a prisoner's sentence should be left to the warden of a reformatory or jail. He is quoted as saying that what Massachusetts really needs is legislation that would leave the determination of sentence within certain bounds, in the hands of the parole authorities. <sup>2.</sup>

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1.

E. H. Sutherland, op. cit. 518.

2.

"Are unreformed convicts being dumped on the public through too easy pardons." Boston Sunday Post, p. A-8 February 5th, 1933.

1. There is no necessary method of determining when a witness is reliable.
2. The feeling of guilt is not a reliable indicator of guilt in an individual.
3. A witness's testimony is not a reliable indicator of guilt in an individual.
4. A witness's testimony is not a reliable indicator of guilt in an individual.
5. A witness's testimony is not a reliable indicator of guilt in an individual.
6. There are not any reliable indicators of guilt in an individual.
7. There are not any reliable indicators of guilt in an individual.

Because of the recent negative findings of the  
 research group of the Journal of Experimental Psychology and  
 his Council this question of the individual's evidence  
 is brought to the attention of the public in many  
 newspaper articles.

Charles Frank A. Baker of the Massachusetts  
 State Board of Health believes that the present policy  
 of allowing a judge to determine an offender to be  
 liable without evidence is not the best one. Baker  
 does not think that the determination of the length of  
 a sentence's sentence should be left to the discretion of a  
 jury or a judge. He is quoted as saying that this  
 Massachusetts really needs a legislative body that would  
 have the determination of sentence rights within  
 itself, in the hands of the people's representatives.

E. E. Schuchman, Jr., M.D., M.P.H.

"The United States is being plagued by the public  
 health emergency." Boston Globe, p. A-2  
 February 20, 1967.



Those in favor of an indeterminate sentence hold that no one can fix in advance the length of time it will take for a prisoner to reform. The actions of the prisoner in an institution are the most trustworthy. Again, an indeterminate sentence is a ray of hope to one confined in prison since it lets him decide how soon he may be set free. It certainly is a step forward in the modern methods of criminology awaiting only for better means of application and the handling of men once they are released.

#### PARDONS

A pardon is an act of mercy or clemency ordinarily by an executive by which a criminal is excused from the penalty which has been imposed upon him.<sup>1</sup> It may be conditional or absolute. It is conditional when the guilt is wiped away on certain conditions to be fulfilled by the convicted person. If these conditions are not complied with, then the pardon is void and the remainder of the sentence must be served. Commutation of sentence similar to a pardon is a shortening of the penalty.

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1. Sutherland, op. cit. p. 499.





The power of pardon rests with different agents in different states. In some states the governor has complete power while in others the governor's power is limited by a council. In dealing with offenders of the federal laws, the President has the power to grant pardons except in cases of impeachment. Not all, however, who are recommended for pardon receive it, for in 1921 there were 1116 applications for pardon from federal institutions. Of this number only 485<sup>1.</sup> received the pardon.

The main purpose of granting pardons is to correct injustice as far as possible, when it has been found to exist. Other reasons advanced are advanced age of prisoners; serious illness; need of the family of the prisoner and adequate reformation of the prisoner. That there are injustices in our judicial system is seldom doubted. Gillin says: "there is little question that under our present methods of judicial procedure justice is not guaranteed."<sup>2.</sup> Often times when the penalty for a specific crime is fixed by a legislature act the judge feels that in the particular case before him the fixed legal punishment is too severe yet he can do nothing. Power of the pardon

1.

Sutherland, op. cit. p. 502, from United States Attorney General Report, 1921.

2. Quoted in Gillin, op. cit. 779.

The power of pardon rests with different agencies in different States. In some States the Governor has complete power while in others the Governor's power is limited by a council. In dealing with offenders of the Federal Government, the President has the power to grant

pardon except in cases of impeachment. Not all, however, who are recommended for pardon receive it. For in 1921 there were 112 applications for pardon from Federal institutions. Of this number only 433 received the pardon.

The main purpose of granting pardon is to correct injustice as far as possible, when it has been found to exist. Other reasons advanced are advanced one of ill-health; serious illness; need of the family of the prisoner and the social relations of the prisoner. That there are injustices in our judicial system is seldom doubted. Wilson says: "There is little question that under our present system of judicial procedure justice is not guaranteed." Other times when the penalty for a specific crime is fixed by a legislature and the judge feels that in the particular case before him the fixed legal punishment is too severe yet he can do nothing. Power of the pardon



can correct this injustice after the prisoner has served time commensurate with his crime. Parole helps in some cases yet the law requires a certain part of the sentence to be served which may be too long in a specific case. Judging from the use made of it by most governors they must think it one means of justice. Goodrich, in an article on "The Use and Abuse of the Power to Pardon" quotes a governor as follows: "After nearly four years of experience and a careful study of the whole question I am fully convinced that the public interest is best served, the reform of the prisoner more certainly attained and the welfare of the family and the immediate community advanced by a liberal but discriminating use of the pardoning power than by its harsh and restricted use. Mistakes will be made--- but for every mistake scores of men will be restored to society never again to transgress the law, many families united and made happy, the just demands of the law satisfied and society benefited by such a policy."<sup>1.</sup>

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1.

Goodrich, "The Use and Abuse of the Power to Pardon" Journal of Criminal Law and Criminology, Volume XI., November 1920, p. 339.

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 Parole System" under a chapter on "Prisoners" "After  
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 to be done--but for every mistake scores of men will be  
 restored to society never again to transgress the law,  
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 of the law satisfied and society benefited by such a  
 policy."

I.  
 According to the Use and Abuse of the Parole System  
 Journal of Criminal Law and Criminology, Volume XI,  
 December 1920, p. 332.



In 1929 there were 25,000 persons on probation<sup>1.</sup> in Massachusetts while 19,000 were in prisons or jails. The pardoning power resting in the hands of a Governor is often assailed. Those opposing base their conviction on the following arguments:

1. Governors are often influenced by sentiment or emotion rather than by the best **interest** of society.

2. Political pressure often forces the hand of the Governor.

3. It gives too much power to a Governor.

4. The Governor because of his many other duties can not give sufficient time to consider the case from all angles.

5. All have not the same chance since the question of money enters in.

6. If carried to excess, disregard for the law will follow. (2)

These reasons, however, have some weight as long as there are no regulations according to which pardons are given. Some states have made an effort at this work but they vary according to the different states making them. If the indeterminate sentence were the only sentence given there would be no need for pardon since parole could take care of those who are held unjustly or when ready to return to society at large.

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1.

"Are unreformed convicts being dumped on the public thru too easy pardons," Boston Sunday Post, p. A- 8, February 5, 1933.

2.

Gillin, op1 cit. p. 781, 782.





But as long as the government retains its present procedure in criminal courts pardons serve a good purpose. For according to custom it fits the punishment to the crime rather than upon the nature of the man and the circumstances under which the crime was committed. With all its faults the pardoning power provides an escape from intolerable injustice. In order to escape the mistakes made by a governor exercising the power to pardon, several suggestions have been made. They may be summarized thus:

1. He should act upon the advice of other officials.
2. Pardons and paroles should be handled by the same board since they are so closely related in their purpose namely the release of a prisoner.
3. A most thorough investigation of each case should be made.
4. Each case should be considered on its merits alone without the intervention of any outside party. (1)

Opponents often condemn the pardon system because of one failure. This is evident from the criticism heaped upon Governor Ely of Massachusetts in January 1933. A pardoned alien was picked up with burglar's tools and a revolver. Immediately some said that, through pardon, criminals were being turned out of jails into the public streets. This opinion, however,

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1.

J. L. Gillin, op. cit. p. 781. 782.

that as long as the Government retains its present  
 procedure in criminal cases persons serve a good  
 purpose. For according to custom it is the  
 responsibility of the crime rather than upon the nature of  
 the man and the circumstances under which the crime  
 was committed. With all its faults the present power  
 provides an escape from intolerable injustice. In order  
 to change the mistakes made by a Government exercising  
 the power to punish, several suggestions have been made.  
 They may be summarized thus:

1. The sentence should be upon the advice of other  
 officials.
2. Parole and pardon should be handled by the  
 same board since they are so closely related in their  
 purpose namely the release of a prisoner.
3. A more thorough investigation of each case  
 should be made.
4. Each case should be considered on its merits  
 alone without the intervention of any outside party. (1)

Opponents often condemn the pardon system because  
 of one failure. This is evident from the criticism  
 heaped upon Governor Ely of Massachusetts in January  
 1935. A pardoned alien was picked up with burglar's  
 tools and a revolver. Immediately some said that  
 through pardon, criminals were being turned out on  
 their heads into the public streets. This opinion, however,



seems groundless. Albert Carter, State Commissioner of Probation, in a newspaper article in the Boston Sunday Post, February 5th, 1933, says that over many years the humane treatment of offenders has worked out to the benefit of the community and the individual and there is no breakdown of the system because of one sensational apparent failure.

#### TREATMENT OF JUVENILES

It is evident to anyone who has any information relative to crime that lack of proper training and supervision in early years disposes a youth for a criminal career later in life. Records seem to reveal that in a majority of cases the criminal has been a delinquent child. Of 500 cases studies by Sheldon and Eleanor Glueck, over four-fifths of the reformatory inmates were known to have been arrested for offenses other than and prior to that for which they had been sentenced to the reformatory. The average age of the first arrest for the entire group was slightly over sixteen years. Forty-two percent were known to have<sup>1.</sup> been first arrested at fourteen years of age or less.

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1.

Sheldon and Eleanor Glueck, 500 Criminal Careers, p. 148.

some grounds. Albert Gault, State Commissioner  
of Fish and Game, in a message dated in the month  
of June, 1912, advised that in many  
years the Bureau has been at all times well out  
of the front in the community and the individual and  
there is a feeling of the value of one  
individual against another.

### THE STATE OF NEW YORK

It is evident to anyone who has any information  
relative to the fact of proper fishing and  
regulation in early years of the State for a  
certain period later in life. However, when to reveal  
that in a majority of cases the original has been a  
defendant since. Of 200 cases studied by Sheldon and  
Miner, 150, over 100 of the defendants  
names were known to have been arrested for offenses  
other than and prior to that for which they had been  
arrested in the territory. The names of the  
first arrest for the entire group are slightly over  
eighty years. Fifty-two names were known to have  
been first arrested at fourteen years of age or less.

Sheldon and Miner, 1912, 200 Criminal Cases, p.  
141.



The term juvenile delinquency is a broad one. Considered in a legal sense it means an offense committed by a person sixteen years of age or under which otherwise would be a specific criminal offense. Again reference to juvenile delinquency implies such social misconduct warranting interference by some social or extra- legal agency.<sup>1.</sup>

In treating crime among juveniles we should consider two things,

First- there is a lack of responsibility or discernments in juveniles. The child because of undeveloped mentality does not understand the situation and therefore, lacks intent.

Second- criminal courts are based on the assumption of vicious depravity of criminals and severe penalties are effective in deterring others from crime. The best method of handling children, however, would be to guard and protect rather than punish.<sup>2.</sup>

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1. Nathaniel Cantor- Crime, Criminals and Criminals Justice, p. 73.

2. H. H. Lou, Juvenile Courts, in the United States, p.19.

The term juvenile delinquency is a broad one.

Considered in a legal sense it means an offence committed by a person sixteen years of age or under who is liable under the law to a specific criminal offence. Again reference is made to juvenile delinquency in the social sciences as juvenile delinquency is concerned with the social adjustment of the juvenile. It is a social problem.

In the social sciences juvenile delinquency is defined as follows:

It is a social problem.

It is a social problem.

It is a social problem.

It is a social problem.

It is a social problem.

It is a social problem.

It is a social problem.

It is a social problem.

It is a social problem.



## JUVENILE COURTS

It is generally accepted that the first juvenile court not only in the United States but in the world began in 1899 with the establishment of the Chicago Juvenile Court called the "Juvenile Court of Cook county." It provided that in countries with a population over 500,000 the circuit court judges should designate one of their number to hear all juvenile cases. About the same time, Denver, Colorado established a juvenile court. It followed the passage of a school law by the legislature. "Any child between the ages of eight and fourteen years and sixteen years who cannot read the English language or not engaged in some regular employment, who is habitual truant from school-- or who is in attendance at any school -- and is incorrigible, vicious or immoral in conduct, or one who habitually wanders about the streets and public places during school hours, having no business or lawful occupation shall be deemed a juvenile disorderly person."<sup>1.</sup>

Judge Lindsey then established a juvenile court for special hearings of delinquent children's cases. Since that time many states have established such courts under

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1.

H. H. Lou, op1 cit. p. 21, from Laws of Colorado, 1899, chapter 136.

# JUVENILE COURT

It is generally accepted that the first juvenile

court was held in the United States in the year

1899 in New York with the establishment of the Juvenile

Court of New York City and County.

It is noted that in connection with a legislation

in 1899 the juvenile court judges were designated

as judges of the court and all juvenile cases, and the

same judge, District Judge, is designated as judge of the court.

It is noted the language of a school law of the

State of New York, "any child between the ages of eight and

fourteen years and fifteen years and under shall

be subject to the jurisdiction of the juvenile court.

and the court, who is designated as judge of the court--or

who is in attendance at any school--and is investigating

whether or not the child is delinquent, or who has been

admitted to the court and who is designated as judge of the court.

school judge, having no business or legal connection

with the court, is designated as judge of the court.

These judges then designated as juvenile court judges

are designated as judges of the court and are designated as judges of the court.

and the court judge designated as judge of the court.

J. N. Lee, Jr., 1911, from Journal of Education,  
1911, Chapter 128.



different conditions and methods of procedure. Mrs. Eveline Belden of the United States Department of Labor in 1918 made a study of juvenile courts for the Children's Bureau Publication. The essential features were found to be as follows:-

1. Separate hearings for children's cases.
2. Informal or chancery procedure, including the use of petition or summons.
3. Regular probation service, both for investigation and for supervisory care.
4. Detention separate from adults.
5. Special court and probation records, both legal and social.
- 6 Provision for mental and physical examination.

Although most states have juvenile courts only a few came up to the minimum standards of the Children's Bureau which recommend courts reporting:-

- "(a) separate hearings for children
- (b) officially authorized probation service.
- (c) the recording of social information" (2)

The jurisdiction over children in these courts is chancery and not criminal so that emphasis is placed on the vital social facts at home and environment including physical and mental condition of the child.

There are many points of conflict between the juvenile and the criminal court. Two of the important ones are the question of jurisdictional age and the

1.

Belden, "Courts in the United States, hearing children's cases", Children's Bureau Publication, No. 65, p. 10.

2. Gillin, op. cit. p. 795.

different conditions and methods of treatment. Mrs.

Evans, Editor of the United States Department of

Health in 1912 made a study of juvenile cases for the

Children's Bureau Publication. The following treatment

was found to be as follows:-

1. General treatment for children's cases.

2. Isolation or temporary treatment, including the

use of isolation or hospital.

3. Isolation or temporary treatment, both for prevention

and for treatment.

4. Isolation or temporary treatment, both

for prevention and treatment.

5. Isolation or temporary treatment, both

for prevention and treatment.

6. Isolation or temporary treatment, both

for prevention and treatment.

7. Isolation or temporary treatment, both

for prevention and treatment.

8. Isolation or temporary treatment, both

for prevention and treatment.

9. Isolation or temporary treatment, both

for prevention and treatment.

10. Isolation or temporary treatment, both

for prevention and treatment.

11. Isolation or temporary treatment, both

for prevention and treatment.

12. Isolation or temporary treatment, both

for prevention and treatment.

13. Isolation or temporary treatment, both



nature of the offense which the juvenile court should handle. According to the figures given, out of 175,000 children's cases brought before courts only 50,000 came in courts adapted hearing children's cases. <sup>to</sup> 1.

The age limit under which a juvenile court may obtain jurisdiction varies from sixteen to twenty- one years of age. The tendency of recent statistics has been to increase the limit to the eighteenth birthday, in conformity with the recommendations of the committee appointed by the United States Children's Bureau in 1921. <sup>2.</sup> This has one objection, namely that increasing the age limit will increase the number of cases of courts already over- burdened.

The delinquent child offers the greatest problem for juvenile courts. The survey made by Belden in 1918 shows that fifty- eight percent of the cases in children's courts were delinquent cases. Here again there is a difficulty as to just what constitutes a delinquent. For the definition of child delinquency,

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1.

Belden, op. cit. p. 14.

2.

H. H. Lou, op. cit. p. 48.





H. H. Lou has given a very inclusive one. He says a delinquent child is commonly defined by statistics, "as any child under a certain year of age who,

1. Violates a state law or local ordinance, except crimes punishable by death or life imprisonment.

2. Is wayward, incorrigible or habitually disobedient.

3. Associates with thieves, criminals vagrants or vicious persons.

4. Is growing up in idleness or crime.

5. Knowingly visits a saloon, pool room, billiard room or gambling place.

6. Wanders about streets at night.

7. Wanders about railroad yards, jumps on moving trains or enters any car or engine without authority.

8. Habitually uses or writes vile, indecent or obscene language.

9. Absents himself from home without just cause or without consent of parent or guardian.

10. Is immoral or indecent.

11. Is an habitual truant." (1)

Juvenile courts also tend to treat dependent and neglected children. The dependent and neglected child is usually defined as any child under a certain year of age who is:-

1. Destitute.

2. Homeless.

3. Abandoned.

4. Dependent upon the public for support.

5. Without proper parental care or guardianship.

6. Begging or receiving alms.

7. Found living with vicious or disreputable persons.

8. In a home unfit because of neglect cruelty or depravity on the part of the parents.

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1.

H. H. Lou, op. cit. pp. 53, 54.

8. The law has given a very inclusive one. It says a delinquent child is commonly defined by statutes, and may include a certain year of age who,

1. Violates a state law or local ordinance, except those punishable by death or life imprisonment.
2. Is wayward, incorrigible or habitually disobedient.
3. Associated with thieves, criminals, vagrants or violent persons.
4. Is growing up in idleness or crime.
5. The law also states a school, good room, children's room or gambling place.
6. Habitual about streets at night.
7. Habitual about railroad yards, jumps on moving trains or enters any car or engine without authority.
8. Habitually uses or sells wild, innocent or obscene language.
9. Leaves himself from home without just cause or without consent of parent or guardian.
10. Is truant or delinquent.
11. Is an "idiot or insane."

These are the laws also found in most dependent and neglected children. The dependent and neglected child is usually defined as any child under a certain year

of age who is:

1. Destitute.
2. Neglected.
3. Abandoned.
4. In need of support.
5. Without proper parental care or guardianship.
6. In need of medical aid.
7. Found living with vicious or incorrigible persons.
8. In a home unfit because of neglect, cruelty or depravity on the part of the parents.



9. Peddling or playing a musical instrument or singing in a public place.

10. In surroundings dangerous to morals, health or general welfare, or such as to warrant that the state assume guardianship.(1)

This is really a blanket definition to include any child in need of guardian ship. In some states the juvenile court is given jurisdiction over mentally defective children.

In furthering the spread of juvenile courts certain conditions are noticed, among them are,

1. That "no court can do its work unless it gives a careful physical, mental and social examination to children.

2. There must be coordination in the trial and treatment of juvenile cases and family cases such as desertion, non- support and the like.

3. Juvenile court work and probation must be supported and supervised by the state.

4. The various social agencies of the community should work together.

5. The standards both of judges and probation officers be raised.

6. The juvenile court is merely palliative; that which is needed is prevention" (2)

As to the success of the juvenile court there is strong disagreement, Judge Lindsey said, "One probation officer, earnestly and enthusiastically engaged in his work will do more in the course of a year to prevent

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1.

H. H. Lou, op. cit. p. 54.

2.

Gillink, op. cit. pp. 797- 798





crime than the best District Attorney can do in five years in prosecuting crime." On the other hand, Judge Baker of the juvenile court of Wells County, Colorado, said "The only conclusion any one familiar with even the best of them can reach is that in providing machinery for the reformation of incorrigible children they have failed."<sup>1</sup>

In seeking methods to improve the work of the juvenile court the two most important are:-

1. To merge the juvenile court with the general family court.

2. To transfer most or all of the work of the juvenile court to the schools.

The National Probation Association and American Institute of Criminal Law and Criminology have both recommended amalgamation. In treating correction, it is urged that the school can do that work better than the court. It has the facilities and lack the stigma attached to work done by the court.

Regardless of its own success or failure the juvenile court system has given one outstanding contribution namely; the establishment of children's

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1.

Quoted in Sutherland, op. cit. p. 299.

either than the best Electric Attorney can do in five years in practicing law." On the other hand, Judge Blair of the Juvenile Court of Wells County, Indiana, said "The only consolation any one feels in seeing even the best of them can reach is that in reaching maturity for the responsibility of independent children they have failed."

- In reaching maturity to improve the work of the Juvenile Court the two most important steps:
1. To merge the Juvenile Court with the General County Court.
  2. To transfer most, or all of the work of the Juvenile Court to the schools.

The National Probation Association and American Institute of Criminal Law and Criminology have both recommended amalgamation. In reaching agreement, it is urged that the school can do that work better than the court. If the Juvenile Court lacks the right personnel to look after the court.

Registration of the camp schools or holding the Juvenile Court system has given one outstanding contribution namely; the establishment of children's



clinics for the scientific study and understanding of personality problems and problems of conduct and behavior and psychological situations in relations to both causation and preventive treatment.<sup>1.</sup> Barnes says that more progress has been made in regard to the scientific understanding of the causes and prevention of crime in the last quarter of a century than in the preceding two thousand years.<sup>2.</sup>

#### CRIMINAL JURISPRUDENCE OF THE PRESENT DAY AND ITS DEFECTS

There have been four phases of criminal jurisprudence from the remote past to the present time. The first was an era of vengeance; the second, that of repression; the third, that of attempted reformation and rehabilitation; the fourth of which we see as yet but the early dawn, is that of prevention. Society has tried one after another with the underlying desire to get rid of the criminal. Each successive type has been an improvement over the former. The last, namely, that of prevention, is being tried today by enlightened penologists the country over.

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1. H. H. Lou, op. cit. p. 199.

2. H. E. Barnes, The Repression of Crime. p. 7.





Courts have always played an important part in criminology. In early times it was found that private punishment was extremely costly. Consequently, public courts came into existence. These, like other enterprises conducted by human beings, have their weaknesses which may be summed up thus;

1. Undue influence which allows the guilty to escape.
2. Needless delays due to intricacies of procedure.
3. The sporting theory of judicial procedure.
4. The lack of organization in the court system.

Ex- President Taft said that "the administration of criminal law is a disgrace to our civilization."<sup>1.</sup>

These defects, especially the first, are a distinct advantage to certain criminal lawyers, who, with plenty of money, at their command bring about the freedom of rich but guilty clients. This type of lawyer does not try to conceal his motives as is evident from the following statement, "one firm of criminal lawyers in Cleveland was known as the Counsels for the International Association of Pickpockets; both members of the firm were formerly associates of a prosecuting attorney for the county: one was a former police- prosecutor."<sup>2.</sup>

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1.

Quoted by Sutherland in "Criminology, p. 255.

2.

Gillin, op. cit. p. 743.





These men used every technical device possible to free a client though he be guilty.

In a survey of criminal justice in Cleveland, Ohio, in 1920 a study was made of 4499 cases of felony. The result showed that only fourteen percent were found guilty of either felony or misdemeanor. This study gave many illustrations of the working of political influences upon the machinery of justice in Cleveland to show that some indictment can be made against the court.<sup>1.</sup>

One of the most valuable devices for the criminal is a delaying of the trial. This gives a chance for interest to lag and witnesses to disappear or forget. The average time intervening between arrest and final disposition of cases in the common pleas court of Cleveland (1919) was 69.3 days. One striking case is described by Professor Sutherland, in "Criminology". "During 1920 a wealthy man was indicted on a charge of sedition: two months were required in securing a jury and 1200 prospective juries were examined: it has been asserted that in a similar trial in Canada a jury was secured in ten minutes."<sup>2.</sup>

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1. Gillin, op. cit. p. 750

2. Sutherland, op. cit. p. 261.

These men used every technical device possible to free  
a client through the guilty.  
In a survey of criminal justice in Cleveland, Ohio,  
in 1964 a study was made of 1000 cases of felony. The  
results showed that only 100 cases were found  
guilty of either felony or misdemeanor. This study  
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influences upon the technology of justice in Cleveland  
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One of the most valuable devices for the criminal  
is a system of the trial. This gives a chance for  
interest to lag and witnesses to disappear or forget.  
The average time interval between arrest and trial  
disposition of cases in the common law courts of  
Cleveland (1910) was 62.5 days. One striking case in  
described by Professor Edmund, in "Criminology".  
"During 1902 a wealthy man was indicted on a charge of  
murder. The charges were related in securing a jury  
and 1000 prospective jurors were examined; it was  
then reported that in a similar trial in Canada a jury  
was secured in ten minutes."

1. Edmund, op. cit. p. 700  
2. Edmund, op. cit. p. 201



Due to these outstanding faults a demand is being made for the abolition of the jury, and a committee of legally trained men do their work. However, proof is lacking that education alone, along such lines, makes a man more honest or more sincere in his judgment.

#### THE BRIGGS LAW OF MASSACHUSETTS

In 1921 Massachusetts passed the Briggs Law which required that any person indicted for a capital offense and any person bound over or indicted for a felony who had previously been convicted of a felony or indicted more than once for any offense is under the law to be reported to the State Department of Mental Diseases. The Department then appoints two psychiatrists who, after examining the defendant, report on his mental condition. This report is available to the court, district attorney, defense counsel and the probation officer. This eliminates the conflict of pseudo psychiatrists of whom we hear so much today and is a decided improvement.





### THE BAUMES LAW OF NEW YORK

In August of 1925 a group of men, leaders in political and business life, met in New York to find out the causes of the increase of crime. From this meeting developed the National Crime Commission and the New York State Crime Commission.

The latter Commission set out to study the crime situation, the administration of criminal justice and the punishment for crime. Senator Caleb Baumes became its chairman. Twenty four bills were formulated and all but two passed, most of them becoming effective July 1, 1926. These were known as the Baumes Laws. They were aimed at the use of fire arms and the habitual criminal. Conviction of a fourth felony regardless of the nature of the felony meant life imprisonment. The most revolutionary change in procedure was in the imposition of life imprisonment upon felonies in other than murder charges. The law is mandatory and executive clemency is the only  
1.  
remedy for dealing with exceptional cases.

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1.

Haynes, op1 cit. p. 138.

# THE LAMARCA LAW OF NEW YORK

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The latter Commission set out to study the crime situation, the administration of criminal justice and the punishment for crime. Senator David Hughes became its chairman. Twenty-four bills were introduced and all but two passed, a set of about twenty-five articles July 1, 1906. These gave birth to the Laramie Law.

They were aimed at the use of fire arms and the political criminal. Creation of a new in felony was a result of the nature of the felony nearly life imprisonment. The new revolutionary change in punishment was in the imposition of life imprisonment upon persons in other than murder charges. The law is mandatory and executive clemency is the only remedy for dealing with exceptional cases.



The Baumes Laws depends upon severity as a deterrent. Whether it gains the end it seeks, remains to be seen. It has not had a wide enough application to form accurate conclusions. Its effects thus far in New York have not led other states to follow.

Warden Lawes of Sing Sing says, "I maintain that a fourth offender law like the one now in effect in New York State is not the proper measure of a man's qualifications for a life sentence."<sup>1.</sup>

Criminal procedure, as practiced today, is blamed by some as a cause for the increase in crime. The president of the Prison Association of New York said a few years ago that "of all the agencies and influences that tend to the increase of crime in the United States, it is safe to say that the penal codes and the primitive system of the criminal law, inheritances from the middle ages, are the most potent and insidious."<sup>2.</sup>

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1.

Lewis E. Lawes, "Twenty Thousand Years in Sing Sing" p. 386.

2.

Haynes, op. cit. p. 111.

The present law depends upon severity on a  
 statement. Whether it follows the end of words, remains  
 to be seen. It has not had a chance of application  
 to the present situation. It is difficult to see how  
 in New York have not had other states to follow.  
 When law is not being made, "I maintain that a  
 strong statement law like the one now in effect in  
 New York State is not the proper remedy of a man's  
 condition for a life sentence."

Outward treatment, as practiced today, is  
 almost as good as a cure for the inmate in crime.  
 The treatment of the patient in the hospital of New York  
 and a few years ago was "of all the hospitals and  
 institutions that have to be treated, of course in the  
 United States, it is hard to say that the present  
 and the primitive system of the criminal law,  
 particularly from the whole aspect, are the most perfect  
 and intelligent."

James M. Jones, "Twenty Thousand Years in Sing Sing"  
 p. 100.  
 Ibid., op. cit., p. 111.



## SOCIALIZATION OF COURTS

Dean Pound of the Harvard Law School advocates a change or an infusion of social ideas into the traditional element of criminal law. The right course is-- "to provide a new set of premises, a new order of ideas in such form that the courts may use them and develop them into a modern system by judicial experience<sup>1.</sup> of actual experience."

Mr. Reginald Smith, of the Boston Bar, in issuing a report for the Carnegie Foundation for the Advancement of Teaching, criticises the court but not the judges. In his five years investigation he found that justice is denied to the poor but not intentionally. He specified the serious imperfections in our present administration of justice as follows:

1. Reorganization of courts.
2. Simplification of procedure.
3. Equalization of administration of justice.
4. Lack of a Bureau of Justice. (2)

He holds that the machinery of justice needs revision constantly. Progressive society changes its needs. Consequently the law must change constantly.

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1.

Roscoe Pound, *The Spirit of the Common Law*, p. 192.

2.

Reginald Smith, "Justice and the Poor" quoted by Haynes in *Criminology*.

## SOCIALIZATION OF COURTS

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2. Inadequacy of procedure.
3. Inadequacy of administration of justice.
4. Lack of a Bureau of Jurisdiction. (C)

He holds that the machinery of justice needs  
 revision completely. Progressive society cannot be  
 made. Consequently the law must change constantly.

1. Report found, The Report of the Carnegie Law, p. 100.
2. Report found, "Justice and the Poor" quoted by  
 House in California.



Respect for the law can come only when people believe in its justice. However, even the uneducated man knows of cases where the use of large sums of money has brought freedom to one known to be a criminal. But yet it is not unlawful for any man to spend his money to gain freedom. What is unfair, is that, one man has that means at hand while a poor man is deprived of agents to present his case. There is a legal recognition in most states of the right of the accused person to legal assistance but no really effective plan has been developed for the actual application of the accepted principle. Attempts have been made, however, in supplying a public defender and legal aid. They do not guarantee justice to the poor because a case often becomes a game with the prosecution and defense on opposite sides. "A preferable method would be to get rid of the whole contentious procedure and substitute for it a plan for the scientific determination of guilt similar to that<sup>1.</sup> in most Juvenile courts." Our courts need to be socialized, that is they should be interested not alone in determining guilt or innocence but in learning

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1.

Haynes, op. cit. p. 130.





1.

what to do with the offender. One progressive suggestion has been made that the larger courts should be equipped with a staff of investigators to direct the use of all the machinery that the state has for the care of criminals.

To the end that the poor may have the same chance as the wealthy, Dr. Louis N. Robinson, secretary of the New York State Crime Commission, offers the plan of paying fines by the installment. Then no man would go to prison only because he is poor.

Dr. Stearns, a former Commissioner of Correction of Massachusetts, brings out the fact that the courts should have a better attitude toward probation officers. Probation is a firmly established institution but it needs more officers. All the data possible is needed in the treatment of criminals, but a small number of probation officers are limited in the amount of work they can do. "When probation has developed to a greater extent the court will be in a position to assume its responsibility for the control of crime."

2.

1.

Robinson, op. cit. p. 320.

2.

Stearns, op. cit. p. 119.

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Dr. Johnson, a former Commissioner of Correction

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Johnson, op. cit. p. 230.

Johnson, op. cit. p. 112.



## CLEARING HOUSE IDEA

Dr. Stearns also sees the need of a clearing house for observation and study prior to sentence. For, the investigation should include the equipment of the individual and the social situation from which he has come. The court has not the time for such study, yet, often times a full study of a case will eliminate disastrous results to the criminal and his family. It may reduce recidivism and thereby save the government a large amount of money.

It is the clearing house where assignment to a type of institution suitable for his type can take place. Here the effects of environment and heredity may be weighed. Environment seems to be most significant while heredity may play some small part. Dr. Spaulding and Dr. Healy after studying a thousand cases make the following statement. "We repeat that in the study of a thousand cases we find no proof of the existence of hereditary criminalistic traits as such. Of course we cannot absolutely deny such inheritance, but judging by our studies, we feel that careful observations elsewhere will bring forward evidence





rather against such a theory, than in favor of it." <sup>1.</sup>

Unity of action is necessary for success in every endeavor. The treatment of criminals is no exception. Coordination must be made between the police, the courts and the prisons. Each should know what the other is trying to do. Stearns thinking that "perhaps a future ministry of justice may be necessary in order to coordinate the work of the various agencies now working independently." <sup>2.</sup> For now, there are many ways through which dangerous criminals can escape and many harmless unfortunate people are ruined by their prison experiences.

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1.

Edith R. Spaulding : Willian Healy, "Inheritance as a Factor in Criminality." Bulletin of the American Academy of Medicine. Volume VV. No. 1. February, 1914.

2.

Stearns, op. cit. p. 128.

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2. *William F. Gooding: "Inheritance as  
 a Factor in Criminality." Bulletin of the American  
 Academy of Medicine, Volume XV, No. 1, February, 1914.  
 Chicago, Ill. p. 123.*



## CHAPTER V

## PREVENTIVE MEASURES

The newest phase of penology is the preventive. If prevention can reduce the number of criminals the need for remedies within the prison will be diminished. As matters now stand even with the improvements which have come into existence, men still apply fear and hate to the criminal. The restoration of the prisoner has been last in our list of objectives.

If men are to stem the tide of crime, they must not only seek the means of treatment but the causes which make the criminal. For, as medicine now seeks means of prevention of diseases, so penologists seeking the good of society must treat the sources of infection. To be sure, there are several difficulties in this work among which the greatest are lack of money, ignorance and opposing interests. Until recently most of the suggestions offered have been idealistic and lacking in power of application.

## OPPOSITION TO THE MOVEMENT.

Opposition is commonly met in newspapers which deprived of their sensational news, would feel





the pinch in a smaller circulation. The cheap show in losing its vulgarity and suggestive settings would play to empty seats. The increase of psychiatric clinics would increase the tax rate. Consequently society seems willing to sit back and apply the "laissez faire" method not aware of the fact, however, that they are paying an enormous price for crime by their inactivity along preventive lines.

Science offers its great gift only after a great deal of research. In treating crime the same method must be used. "Every case record should be a diagnosis of the community as well as of the community. The clearing house with its bureau of research should be able to secure such information regarding heredity community relations and individual traits as will give the desired clues to policies of prevention of crime."

Prevention may be considered under two heads, environmental and personal. Since crime is always the effect of a particular personality reacting to a particular environment any comprehensive progress for

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1.

Sutherland, op. cit. p. 621.

The plan is a smaller circulation. The money then  
 is loaned to the industry and suggestive messages would  
 play to every owner. The industry of paper making  
 is one of the most important in the world. Some people  
 are very much interested in it and are very much  
 interested in it. Some people are not interested in it, however,  
 that they are making an enormous price for other things  
 that they are making along preventive lines.

Science offers the great gift only after a great  
 deal of research. In practice, the more the  
 more the more. Every new research should be a

discovery of the industry as well as of the community.  
 The discovery of the industry of research should  
 be able to supply the industry with the necessary  
 knowledge and information and industry should be able to  
 give the industry the necessary information of prevention of  
 error.

Prevention may be considered under two heads,  
 environmental and personal. Since time is always  
 the object of a particular responsibility, leading to a  
 particular environment, any comprehensive program for



the prevention of crime would necessarily include every measure that so modifies the individual or his environment as to decrease the kind of function that results in anti- social conduct.<sup>1.</sup>

#### PREVENTION AMONG YOUTHS

The problem of society is, therefore, to prevent the development of offenders whose careers are antagonistic to progress and the social order. This work must be started early for the age of offenders is declining. In 1915, of 86,625 persons admitted to the city and district prisons of the Department of Correction of the city of New York, 47, 576 were under thirty years. Hence we see the need of treatment among the young.

#### STERILIZATION

One policy being urged by many and opposed by many others is sterilization of certain types of criminals so that no criminal may have children to carry on that criminal character any longer. This plan

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1.

Barnes, op. cit. p. 421.

The prevention of crime would necessarily involve every measure that would make the individual or his environment as to decrease the risk of infection that results in anti-social conduct.

#### PREVENTION AND TREATMENT

The problem of society is, therefore, to prevent the development of antisocial habits and to provide the individual with the proper environment. This work must be started early in the life of the individual. In 1911, of 55,000 persons admitted to the city and district prisons of the Department of Correction of the City of New York, 47,000 were under thirty years of age. These are the seeds of antisocial habits.

#### REHABILITATION

The policy being urged by many and opposed by many others is the abolition of certain types of criminals as that no criminal may have occasion to return to the criminal class any longer. This plan



is based on the assumption that criminality is hereditary. But that argument lacks proof. Those people who hold that criminality is hereditary offer as a striking example the Jukes family of New York. Goddard who has studied the Kallikak family thinks that every feeble-minded person is a potential criminal. Whether he becomes a criminal depends upon his temperament and<sup>1.</sup> environment.

#### INFLUENCES OF HEREDITARY

At the present time, however, not enough evidence is produced to show that hereditary is such a strong influence that it requires extreme measures. Gillin, says, "Crime as such cannot be inherited. Crime is a social phenomena produced by a combination of the bodily and mental characteristics of the individual and the environment acting upon that responding personality. A part of personality is the result of biological characteristics inherited from our ancestors<sup>2.</sup> but crime is not a unit characteristic." Men do inherit characteristics which may lead to criminality but do not inherit the criminality itself. "If any trait is inherited which predisposes to crime we do not know what it is-- Consequently there is no

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1.

Gillin, op. cit. p. 170.

2. Gillin, op. cit. p. 159.

is based on the assumption that criminality is hereditary. But that argument lacks proof. There are people who hold that criminality is hereditary either as a striking example the James family of New York. Goddard who has studied the Kallikak family thinks that every feeble-minded person is a potential criminal. Whether he inherits a criminal tendency upon his temperament and environment.

### INHERITANCE OF CRIMINALITY

At the present time, however, not enough evidence is produced to show that heredity is such a strong influence that it requires extreme measures. It is said, "Criminals are such because they inherit." Crime is a social phenomenon produced by a combination of the bodily and mental constitution of the individual and the environment acting upon that constitution. A part of personality is the result of biological characteristics inherited from our ancestors for crime is not a unit characteristic. "Men do inherit characteristics which may lead to criminality but do not inherit the criminality itself." It may tend to inherit which predisposes to crime but do not know what it is. Consequently there is no



evidence that criminality would be reduced appreciably by a universal application of sterilization laws to the feeble minded or insane though such laws might have some other advantages." <sup>1.</sup>

Goddard, after making a study of feeble minded in this country, thinks that every such person is a potential criminal. Whether he becomes such, depends upon his temperament and environment. The last factor is that which society can influence. Certain very low types must be segregated and protected in every way. Society must become an engineer for them thereby bringing about prevention of more criminals. It is indeed difficult to enumerate the exact causes of crime for they are complex. Poverty, ignorance, idleness, insanity, crowded conditions, wars, broken homes, divorce, greed and numerous others have been called causes. However, Wines says that the opposite of these may be causes also. "No one has discovered a real cause of crime in an individual who has not put his finger upon the precise point at which this anti- social reaction took place." <sup>2.</sup>

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1.

Sutherland, op. cit. p. 622.

2.

Wines, op. cit. Punishment and Reformation, p. 417.





Healy in his study of 1,000 cases to find the causative factors placed mental abnormalities first<sup>1.</sup> and defective homes second.

#### MAIN SOURCES OF PREVENTION

There are four main channels through which the work of prevention can flow, namely the church, the home, the community and the school.

**THE CHURCH.** The church from its very nature was instituted to improve man's moral conduct. Its norm was the ten commandments of God and those which it made to secure its efficiency. Since it is made up of human beings, its clergy by their laxity has endured criticism. At times in fact some of the clergy have been lacking in intelligence in the application of its principles. One example is the workings of the "Inquisition" in the Middle Ages. But these must be judged according to the beliefs and practices of that time and not according to modern standards. But now the state has assumed much of the work which it used to perform. Its great power now

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1.

William Healey, The Individual Delinquent, p. 130.

Early in his study of 1,000 cases to find the  
 connection between placed mental abnormalities that  
 and delirious cases.

### MAIN SOURCES OF INFORMATION

There are four main channels through which the  
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 of men and women, its effect by their living has  
 a direct influence. At times in fact some of the  
 efforts have been leading to intelligence in the  
 education of the individual. One example is the  
 teaching of the "Indivisible" in the Middle Ages.  
 The church has, indeed, according to the records and  
 statistics of that time and not according to modern  
 standards. But now the state has assumed much of the  
 work which is used to perform. Its power has



rests in having a well trained army of leaders whose interest will extend outside the four walls of the building. One of the means which it is using is the fostering of wholesome recreational habits. It can establish gymnasiums and playgrounds with competent supervision, form clubs to interest youths in their spare time and conduct socials of a wholesome nature and educate its children.

THE HOME. The home used to be the place where the child received many of his first impressions and ideas. But now conditions are changed. Rather than play at home under supervision of parents and relations the child now goes away. This is necessary in many cases especially in crowded tenement districts. Seldom do fathers and mothers take part in the amusement of their children. Often times they do not know where they are. Hence impressions are received by the young in diverse other places, some of which are not wholesome. The absence of this parental supervision leads often to truancy. The disastrous effects are mentioned by the Director of Attendance of the Department of Education of the City of New York.

There is nothing a well trained army of leaders whose  
 interest will spread outside the four walls of the  
 building. One of the main things is to bring in the  
 feeling of collective responsibility. It can  
 be done by means of group work and group work with concrete  
 responsibility. One thing is interest groups in their  
 efforts to get together outside of a classroom nature  
 and outside the building.

THE WORK. The work done in the place where  
 the child receives work of his first responsibility and  
 ideas. But responsibilities are changed. Better

than that of home under supervision of parents and  
 friends the child now has work. This is necessary  
 to any child especially in crowded tenement districts.  
 Before he enters the school he has been in the  
 hands of his parents. Often times they do not  
 know what they are. These interests are received  
 by the child in various other places, some of which  
 are not wholesome. The nature of this parental  
 supervision is often to limit. The discipline  
 which is demanded by the State or of Attendance  
 at the Department of Education in the City of New York.



Of 6,862 cases of truancy, 1,528 cases were those when some one other than the father was the guardian. Often this is a broken home where mother or father has left or one has died. In other cases the mother may be compelled to leave her children and go out to work.

Many parents themselves are in dire need of education. They do not know what is best for the child since they themselves were brought up in filthy and unwholesome surroundings. This applies more to the mother for to her falls the greater part of the supervision of the child since the father is usually away most of the day. Sorry to relate her methods are often detrimental to the best interest of the child. This is evident especially in the school when the mother upholds and defends her child though she knows she has done wrong. Lewis, in his book, "The Offender" enumerates four types of inefficient mothers. First, is the parasite mother who regards her child as a source of income. She cares little where the child gets the money so long as he or she gets it. Secondly, there is the sentimental mother who helps the child lose his own self control by pampering.





Thirdly, there is the immoral and careless mother who is a source of danger to her own children. Fourthly, there is the sick mother who must be cared for by the children rather than vice versa. "In all cases," says Lewis, "the way out seems to be to improve home conditions and relieve the child wholly from parental restraint and control only when it is evident that progress and proper development are not otherwise possible for the influence of parent upon the child is of great consequence, for which there is seldom an effective substitute."<sup>1</sup>

It is difficult to reach the home with a definite program of improvements since so many, even those who need advice, resent it. Sometimes it is ignorance, another time it is false self respect. Some agency, however, must reach such homes as are unfit to rear children. Here the visiting teacher can be of value by observing home conditions and notifying the proper authorities.

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1.

Burdette Lewis, "The Offender", p. 262.





Broken homes play a large part in the causation of delinquent children. Statistics on the juvenile court of Pontiac, Michigan show that from sixty to seventy percent of juvenile delinquents come from broken homes. <sup>1.</sup>

The same author also found that the children of divorced parents frequently find their way into the divorce courts. Hence there is a great need of education in adults to prevent disastrous results in the children. The Commission of Causes of Crime of New York State believes that the habits formed in children are faster than colors dyed in wool. Consequently since the habits of parents are imitated by the child, then education in right living must be given to many parents.

THE SCHOOL. The school is one of the principle agencies in the work of crime prevention, yet, it has failed to a great extent to adjust itself to changing social conditions. Glueck found that of 608 admitted to Sing Sing the beginning of delinquency could be traced back to the school period in many cases. <sup>2.</sup>

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1.

F. J. Covert, "Family Conservation and the Divorce Court" The Newer Justice and the Courts- National Probation Association, Incorporated, New York, 1927.

2.

The Delinquent Child, Section IV. White House Conference on Child Health and Protection, p. 99.





Practically all juvenile delinquents are of school age, thereby, involving the school in their delinquency. "Truancy is not only the acknowledged milieu of many of the more disturbing maladjustments but, also, usually the earliest overt indicator of a more serious failure in life adjustment that may have<sup>1.</sup> been of long standing."

Educators claim the school was instituted for the good of the child but they do not always adapt it to its needs, namely, need for security and need for development. The school is the representative of society in relation to the child, to help him to adjust himself to society. It should supply him the technique to use when he emerges into society. It can do this by setting before him and inculcating in him the wholesome traditions of the community. Recently the school has shifted its emphasis somewhat from the matter taught to the person taught. Hence it now looks at the experience of the child as an experience in later life as it should. This, however is not as general as it might be.

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1.

Glueck, Mental Hygiene, January 1918, p. 111

Specifically all juvenile delinquents are of school age, thereby, insuring the school in their delinquency. "Truancy is not only the acknowledged ally of many of the more serious and/or common delinquencies, but, also, usually the earliest overt indicator of a more serious failure in the adjustment that may have been in long standing."

Truancy alone and school were investigated for the purpose of the study but they do not always agree in the results, usually, more for necessity and need for development. The school is the representative of society in relation to the child, to help him to adjust himself to society. It should supply him the facilities to give him the opportunity to society. It can be said by saying before his and introducing in the the individual's situation of the community. Generally the school has shifted its emphasis somewhat from the teacher's point of view to the child's point. It has shifted at the expense of the child as an individual in later life as it should. This, however, is not as general as it might be.



The magnitude of the problem of irregular attendance is evident from statistics in different parts of the country. Out of every hundred children enrolled in the public schools of South Carolina for the season 1928- 1929, twenty- five percent were absent from school every day. Pennsylvania had twenty-one and four tenths percent absent daily in 1926- 1927. New York had fourteen and one tenth percent absent daily in 1927- 1928. This non- attendance had some relation to delinquency. Of the 251 adolescence committed to the New York City truant school because of illegal absence and whose cases were studied for six or eight years, fifty one percent had required police attention and court aid subsequent to their release from the truant school, twenty one percent being juvenile delinquents and thirty percent adult offenders.<sup>1.</sup> Such figures as these have lead to a study of the causes.

Dissatisfaction with the school is a broad term and can mean many things. It may be divided into more definite terms. The first is lack of adequate facilities such as schools and confined training.

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<sup>1.</sup>

The Delinquent Child- Section IV. White House Conference, p. 107.





Miss Ely Farrell, supervisor of ungraded classes in the New York public schools, expresses her opinion in Mental Hygiene, March 1928. "It is worse than useless to force truants to return to a standardized course of instruction which does not suit their needs or capacities." She views truants as the criminal class of the future. Many are caused because they are misfits to what the school offers.

Secondly, are physical handicaps which put one child at a disadvantage with other children.

Thirdly, are the mental handicaps.

After all is said, schools still stress academic achievement and the child lacking in ability for such is branded as a failure. Psychological tests given in some schools are helping to meet this grave problem but not enough. Again, there are personality handicaps which interfere with the social development of this child. Some parents hold up objectives before their children from the standpoint of marks which they can never reach. They place cultural attainment as the prime importance of the schooling of the child. Family over-protection is another problem caused by too solicitous parents.

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The antithesis of this is family indifference or lack of interest in the school life of the child. Lastly there is the teacher who is temperamentally maladjusted to handle the young and cannot bring out the best thing in the child.

In treating these sources of school dissatisfaction seven methods are offered:

1. Attendance department.
2. Special classes and schools for truants and delinquents.
3. Special classes for typical children.
4. Expulsion and suspension.
5. Child study department and clinics.
6. Vocational guidance.
7. Visiting teachers and school counselors.

Supplying all these branches in education will cost money. But, the saving should be noticed in the reduction of the cost of crime.

Much is being said now, about character training. Superintendents' reports contain elaborate plans. Schools have syllabuses on lessons in honesty, truthfulness and politeness. It is debatable now, just how this should be done. It is certain, however that it must be done for habits formed in youth carry over into adult years.





Dr. Stearns of Massachusetts holds the opinion that the schools are not meeting their responsibilities. He believes that more attention should be paid to recreation, health, use of leisure time and home surroundings of problem children. The fact that practically all juvenile delinquents are children of school age does not mean that the school is the cause of the delinquency. Yet, the school is one important means of bringing about a readjustment. The delinquency committee of the White House Conference stressed this fact when it stated that "before the school lies the promise of a read<sup>1.</sup> program for the prevention of delinquency."

THE COMMUNITY. The community often plays an important part in the career of child delinquency. The child must have normal emotional expression, and if he can not get it under wholesome conditions, he will seek it in the unwholesome way. "It has been clearly demonstrated that where playgrounds have

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1.

Quoted in "Facts about Juvenile Delinquency" Bulletin of United States Department of Labor, Publication, No. 215.

Mr. Secretary of Massachusetts holds the opinion that the schools are not meeting their responsibility. He believes that more attention should be paid to prevention, health, and to social and home environment of children. The fact that practically all juvenile delinquents are children of school age does not mean that the school is the cause of the delinquency. Yet, the school is one important means of bringing about a reformation. The child study committee of the White House Conference discussed this fact when it stated that "before the school can be expected to do its proper part in the prevention of delinquency."

THE COMMUNITY. The community often plays an important part in the career of child delinquency. The child who has normal emotional expression, and it is not that he is under abnormal conditions, he will grow up in the normal way. "It has been clearly demonstrated that where playgrounds have

Quoted in "Juvenile Delinquency"  
Bureau of United States Department of Labor,  
Washington, D. C.



been established with supervised play, delinquency  
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 decreases."

Idleness breeds trouble. It gives time for temptation to get rooted and once rooted it is a difficult thing to correct. It is encouraging to see now that more and more communities are establishing playgrounds. More and better trained supervisors are being appointed.

Children are imitators by nature. The young boy thinks he is a man when he can do the things he sees men do. Consequently, the type of child in a community is often determined by the type of adult. They set the standard and the child follows. A disregard for some law by adults is soon copied by the young. When questionable practices are allowed to continue, then what can we expect from children? Environment has a very strong effect on the child either for good or for bad. It is the duty of the community therefore, to safeguard its young children by making that environment as wholesome as possible.

1.

Dr. Frank J. O'Brien, "Adjusting Treatment to Diagnosis," in Proceedings of National Probation Association, 1928, p. 196.

been established with supervised play, delinquency decreases."

It is a very simple principle. It gives the child something to get excited and excited is the first step to control. It is encouraging to see how the child and the mother are working together. There are many things which are being done.

Children are different by nature. The young boy thinks he is a man when he can do the things he does and so. Consequently, the type of child in a community is often determined by the type of adult. They are the standard and the child follows. A disregard for the law by adults is soon copied by the young. When discipline is given and is allowed to continue, then there can be respect from children. Environment has a very strong effect on the child either for good or for bad. It is the duty of the community therefore, to safeguard the young children by making their environment as wholesome as possible.

Dr. Frank A. O'Brien, "Adjusting Treatment to the Child," in *Transactions of National Association*, 1928, p. 126.



The gang is one question ever before many communities. It is natural for boys left to themselves to congregate and form gangs. While of themselves, they are not always a direct cause of crime, yet the spirit may hold over into later life where we hear so much of racketeering and loyalty to one another and to the leader. Often times information passed around among the members of the gang is most detrimental for a wholesome society.

Men ask themselves what is the solution for handling the gang. Usually, they are formed in areas inhabited by the foreign born or thickly settled districts. There is need <sup>of</sup> boys' clubs and settlement houses to occupy the time of the young. These agencies may cost the community more than it wishes to pay at one time, but if it wishes to reduce criminality, it must start with the young and treat the causes. The New York State Crime Commission found out that the adult offender is ordinarily not an accident but an habitual offender whose non-conformity showed itself even in early childhood.

Though gangs are very common in districts of the foreign born the fact that the members are of foreign parentage is not of itself a cause of delinquency.

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Harry Shulman, a research director of the New York State Crime Commission, gives the result of his investigation. "There was at one time the belief that the wholesale violation of law was the price we paid for admitting immigrants in large numbers. Today, New York City is in a position to measure the effect of a thirteen year restriction on immigration and it finds no diminution in minor offenses. The lesson from this experiment is obvious that it does not suffice merely to have a population that is acquainted with our laws, but one that is interested in maintaining them".<sup>1.</sup>

The community, through its various agencies, may help the child to meet life squarely or make him rebel and become a delinquent. Delinquency is not likely to appear in places where proper community environment is found.

If it is true that the best way to protect an individual from disease is to increase his resistance, then working on the same principle the best way to protect society from crime is to increase the moral

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Harry M. Shulman, Social Agencies and Crime Prevention, p. 545, Journal of Criminal Law and Criminology, Volume XXII, No. 4, November 1931.

Harry Shulman, a research director of the New York State Crime Commission, gives the results of his investigation. "There was not one line the police set that the defendant violated or law was the police set. Today, New York City is in a position to remove the effect of a thirteen year restriction on investigation and its from no distinction in other instances. The reason from this experience is to advise that it does not believe merely to have a population that is so limited with our eyes, but one that is interested in maintaining the law."

The community, through its various agencies, may help the state to maintain its capacity to make law and justice a reality. But the state is not likely to appear in places where proper community environment is found.

It is in fact that the best way to protect an individual from crime is to increase his resistance, then working on the same principle the best way to protect society from crime is to increase the moral



stamina of the community. Fred E. Haynes, Professor of Sociology, State University of Iowa, says in his book, "Criminology" that "if we are ever to cope successfully with the crime problem in a preventive way we must attack it from the social side."<sup>1.</sup> The majority of young people get into trouble in their search for amusement.

Cantor sees a need of changing the economic order to reduce crime. "It seems", he says "that nothing short of a fundamental reorganization of our economic organization of society will materially lessen crime,"<sup>2.</sup> The same idea is stressed by Dr. Clara Meyer- Wichmann of Holland, who holds that present day criminality, notably habitual and professional criminality is<sup>3.</sup> largely caused by the social and economic order.

A healthy community condition is more important than clinics, juvenile courts and reformatories, for the community strikes at the root and prevents the growth of crime, whereas, the other agencies merely treat the delinquent when brought before them.

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1.

Fred E. Haynes, op. cit. p. 376.

2.

Cantor, op. cit. p. 446.

3.

Dr. Clara Meyer- Wichmann, Journal of Criminal Law and Criminology, Volume XX No. 4. November 1921, p. 560.

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The same idea is expressed by Dr. Clara Meyer-Wickmann

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is not only material and professional civilization is

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A healthy society condition is very important

that society, society must be reorganized, for

the community must be at the root and prevent the

growth of crime, disease, the other agencies which

cause the suffering which brings before them.

1. Fred E. Haynes, op. cit. p. 170.

2. Haynes, op. cit. p. 170.

3. Clara Meyer-Wickmann, Journal of Criminal Law and  
Criminology, Volume XX No. 4, November 1931, p. 200.



The community has a two fold duty, namely instituting a program of wholesome, happy use of leisure time and a program of protection against demoralizing influence. It needs the interest and cooperation of intelligent and serious-minded men.

There are many ways in which the community may act for the betterment of the social life of its children and its adults. They may be summarized as follows:

1. Public playgrounds for the younger ones.
2. Athletic fields.
3. Municipal beaches and swimming pools.
4. Play streets.
5. Camp sites and public parks.
6. Public libraries.
7. Concerts and entertainments.

Not every community can have all these but all can have some. Private groups can do much to offer public recreational facilities. The Boy Scouts, Camp Fire Girls, Church clubs and the like, all have an opportunity to create a healthy and wholesome atmosphere. It is these agencies which can give the more personal attention to small groups or individuals, a condition impossible to the large public-controlled facilities.

The community, by its laws, can also eliminate one great source of infection, namely cheap dance

The community has a two fold duty, namely investigating a program of education, namely use of leisure time and a program of protection against seductive influences. It gives the interest and cooperation of intelligent and serious-minded men.

There are many ways in which the community may aid for the betterment of the social life of its children and its adults. They may be summarized as follows:

1. Public playgrounds for the younger ones.
2. Public libraries.
3. Transfer of teachers and university position.
4. Day centers.
5. Camp sites and public parks.
6. Public libraries.
7. Churches and other groups.

Not every community can have all these but it can have some. Private groups can be much to other public groups. The day centers, Camp sites, churches, churches and the like, all have an opportunity to create a healthy and wholesome atmosphere. It is the churches which can give the most personal attention to each group of individuals, a condition impossible to the large public-controlled facilities. The community, by its laws, can also eliminate the chief sources of infection, namely cheap dance



halls and questionable road houses. The city is not the only place where delinquency gets its start. The country districts supply their quota. Consequently they too should be alert to the dangers open to their children.

POLICE. Burdette Lewis of New York, says that men must regard the Police Department as a positive force in crime prevention. They are in more intimate contact with the people and know the moral and social conditions of the community better than most of the citizens. Often times the attitude of the community toward its police determine the condition of that community.

The policeman should know something about the nature of delinquency and the causes of crime. Usually he is the first to come in contact with the offender. His attitude and treatment can curb at its infancy the criminal career of a thoughtless boy. Intelligence and common sense should be his first requisites. F. H. Wines, the criminologist, says that policeman should make it a golden rule never to arrest ex-offenders without grounds to believe that new acts of delinquency have been committed by them.

Wines, op. cit. p. 314.

Leete, op. cit. p. 200.





"The mere arrest of these whom society has already punished is one of the surest ways of stopping<sup>1.</sup> whatever process of reformation may have begun."

The police can be of indispensable help to other agencies. Coming in contact with so many he often sees an environment which is bad for an individual. By informing the proper agency this might be improved or changed without causing any noticeable unrest or unfavorable condition.

Many cities boast of their efficient police force. However, the securing of a scientific force was started by Chief August Vollmer of Berkely, California, in 1908. The University of California offered courses in criminology. Today, other cities are following the lead by establishing schools for prospective police officers.

In communities where the number of detectives is small "stool pigeons" or informers are used. Lewis<sup>2.</sup> in the "Offender" says they are a necessary evil. The community expects the police to know about the crimes around him, though, he has no means at hand of finding out, unless through informers. This may

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1. Wines, op. cit. p. 314.

2. Lewis, op. cit. p. 296.

"The most serious of these social ills is the  
 problem of the aged. The aged are the most  
 neglected of our people. They have no one to  
 care for them."

The nation can do of itself little or nothing  
 to help the aged. It is up to the individual  
 to take care of his own aged. The nation  
 can only help by providing a place where the  
 aged can live. The nation can also help by  
 providing a place where the aged can work.

Many states have established old age pension  
 laws. The state of California has the largest  
 old age pension law in the United States. It  
 was passed in 1913. The law provides for a  
 pension of \$10.00 per month for the aged.  
 The law also provides for a pension of \$5.00  
 per month for the aged who are unable to  
 work.

In California where the number of aged is  
 large, the "aged pension" law is of great  
 value. It has helped many aged people to  
 live. It has also helped many aged people  
 to work. The law has been a great success.  
 It has helped the aged to live and to work.  
 It has helped the aged to be happy and to  
 be useful to society.

State, Cal. P. 1913.  
 State, Cal. P. 1913.



not be an ideal situation but men must use it until other means have been found to accomplish the same ends.

In summary one might say that the police should be alert but not troublesome and over officious, sympathetic, yet not weak, stern in cases requiring it and using common sense at all times. Thus, they may become means of prevention of a great deal of crime and the exponent of a healthy and wholesome community spirit.

When one analyzes the situation he realizes how little he really knows. "It cannot be too strongly stated", says Robinson "that we do not, as a fact, know very much about criminals." Much has been written but it is not the product of continued scientific effort.

Progress in this field meets many obstacles of which three are of great strength. First, there is the inherent weakness of human nature itself. Secondly, the traditional ideas concerning crime and its treatment are ever before us. Thirdly, there is a lack of knowledge in the subject. As yet, we do not

1. Lewis E. Robinson, "Penology in the United States," p. 316.

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## CHAPTER VI

## CONCLUSION

Though men have made some progress in the treatment of criminals, much still remains to be done.

Advancement has not been uniform over the United States. Interests are not common. Men wait until some condition becomes deplorable before they act. They fail to stem the tide in the beginning and by their "laissez faire" policy pay many times what they should.

When one analyzes the situation he realizes how little he really knows. "It cannot be too strongly stated", says Robinson "that we do not, as a fact,<sup>1.</sup> know very much about criminals." Much has been written but it is not the product of continuous scientific effort.

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Lewis N. Robinson, "Penology in the United States," p. 316.

# CHAPTER VI CONCLUSION

It might have been more correct to say that the  
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the line in the beginning and by their "waited time"  
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I.  
James E. Robinson, "Penology in the United States,"  
p. 212.



1.  
 know what to do. Men are just beginning to know the causes or rather the elements which render one liable to a criminal career. All do not agree on these however. For those who stress heredity as a prime cause we can offer the testimony of Warden Lawes of Sing Sing and Dr. Healy of the Baker Foundation. Warden Lawes' work is reported in the Journal of Criminal Law and Criminology. "The results of a recent study of 15,000 ex-convicts shows that only two children of the 15,000 studied now have  
 2.  
 prison records."

The greatest advance in the handling of the crime question has been with juveniles. Men have socialized to some extent at least the juvenile courts. In a word they study before they pass judgment in that court. To be sure, there is room for greater expansion but that awaits a generous and an interested public. As said before, there is need of unity and coordination between the different agencies. One can do little by itself, yet, by working together, much progress can be secured and greater justice given. No one

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1. Albert W. Stearns, M. D. "The Personality of Criminals" p. 135.

2. Journal of Criminal Law and Criminology, Volume XXIII No. 4, p. 672.





denies that he should give to every other man, criminal or otherwise, the justice that is due him, yet lack of interest and procrastination permit many a poor unfortunate human being to be sacrificed on the altar of ignorance and despair. Yet, if Christ left the ninety-nine good sheep to go in search for the lost one there must be something good in that one that God wants.

Men are prone to criticize unfavorably a plan if it fails in one instance. Such is the case in the matter of parole and pardons. These critics forget that men are dealing with human beings possessed with a mechanism which is not fully understood. Again, who is there who knows every act that he himself will perform in the future when certain conditions are placed around him? If a plan is successful in the majority of cases then it should not be discarded because of one failure until something better has been devised. Let men so work with the aim of helping the unfortunate, rather than, punishing him. Of course they must protect themselves and society. However, that does not mean that they must not aid those in need of help. If society showed its interest in self preservation by supplying the means of preventing crime,





then men would have less cause for fearing that the potentiality of criminality in man, would ever come to the surface. This does not mean that a criminal should be coddled or looked upon as a martyr but it does mean that we should treat them as they are--handicapped individuals. "We are now beginning to comprehend that many are born under conditions which impose a serious handicap and that many others are reared under conditions which stunt them and prevent<sup>1.</sup> normal development."

No reasonable person would dare to hope that crime will be completely eradicated. Misconduct will always be found in some men because they are human. Nevertheless crime can be reduced. An improved economic order, so heartily desired by all in these days of depression, can reduce crime by removing the temptations now placed before them and supplying the necessary financial assistance to combat crime. For the care of these who are beyond redemption and seem to defy rehabilitation men must have institutions where humane treatment will be given. It is a great problem but not unsurmountable. Science has helped in other lines. So now let men apply it to criminality and its prevention.

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<sup>1.</sup> Lewis, op. cit. p. 313.

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